

Exhibit

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Owen Diaz-Confidential

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ and
LAMAR PATTERSON, an individual,

CONFIDENTIAL

Plaintiffs,

Vs.

Case No. 3:17-cv-06748-WHO

TESLA, INC. DBA TESLA MOTORS,
INC.; CitiStaff SOLUTIONS, INC.;
WEST VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.
and DOES 1-10, inclusive,

Defendants.
_____ /

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

OWEN DIAZ

SAN FRANCISCO, CALIFORNIA

TUESDAY, MAY 22, 2018

Reported By:
Candy Newland
CSR No. 14256
File No. 18-25470



1 Deposition of OWEN DIAZ, taken on behalf of Defendants
2 at 351 California Street, Suite 200, San Francisco,
3 California, commencing at 10:11 a.m. on Tuesday, May 15,
4 2018, before Candy Newland, Certified Shorthand Reporter
5 No. 14256.

6
7 A P P E A R A N C E S

8
9 FOR THE PLAINTIFFS:

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1 APPEARANCES (CONTINUED)

2

3 FOR THE DEFENDANT TESLA:

4

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21 ALSO PRESENT:

22 Jaime Bodiford, Tesla

23 Rob Delantoni, Videographer

24

25

11:21:21 1 BY MS. ANTONUCCI:

11:21:21 2 Q. Had you ever seen any other drawings in the
11:21:26 3 Fremont Tesla factory?

11:21:27 4 MR. ORGAN: Objection. Vague and ambiguous as
11:21:29 5 to "drawings."

11:21:31 6 A. Yes.

11:21:33 7 BY MS. ANTONUCCI:

11:21:33 8 Q. What other drawings have you seen?

11:21:39 9 A. Graffiti inside the bathrooms.

11:21:51 10 Q. And what graffiti did you see in the bathrooms?

11:22:00 11 A. The N-word wrote inside the bathroom stalls.

11:22:09 12 Q. Anything else?

11:22:18 13 A. Possibly, but not that I can recall at this
11:22:23 14 moment.

11:22:27 15 Q. How many times did you see the N-word written
11:22:30 16 inside the bathroom stall?

11:22:39 17 A. I don't understand the question.

11:22:43 18 Q. Did you only see the N-word written inside the
11:22:47 19 bathroom stall once or multiple times?

11:22:52 20 A. Do you mean every time I went to the bathroom,
11:22:55 21 or wrote on the bathroom walls?

11:22:58 22 Q. Did you go to that bathroom more than one
11:23:02 23 occasion in which you saw the N-word written on the
11:23:05 24 stall?

11:23:06 25 A. Yes.

11:23:06	1	Q.	How many occasions did you go to the bathroom
11:23:08	2		where you saw the N-word written on the bathroom stall?
11:23:16	3	A.	I used the bathroom maybe four or five times a
11:23:21	4		day.
11:23:22	5	Q.	And how long was the N-word written on the
11:23:25	6		bathroom stall?
11:23:27	7		MR. ORGAN: Objection. Vague and ambiguous.
11:23:29	8		Compound.
11:23:34	9		THE WITNESS: To my knowledge, it's still there.
11:23:37	10		I don't know.
11:23:37	11		BY MS. ANTONUCCI:
<u>11:23:38</u>	<u>12</u>	<u>Q.</u>	<u>Did you ever report to anyone that the N-word</u>
<u>11:23:40</u>	<u>13</u>		<u>was written on the bathroom stall?</u>
<u>11:23:43</u>	<u>14</u>	<u>A.</u>	<u>Yes.</u>
<u>11:23:43</u>	<u>15</u>	<u>Q.</u>	<u>Who did you report that to?</u>
<u>11:23:45</u>	<u>16</u>	<u>A.</u>	<u>Ed Romero.</u>
<u>11:23:55</u>	<u>17</u>	<u>Q.</u>	<u>And after you reported it, did someone actually</u>
<u>11:23:59</u>	<u>18</u>		<u>paint over the N-word?</u>
<u>11:24:01</u>	<u>19</u>	<u>A.</u>	<u>No.</u>
<u>11:24:01</u>	<u>20</u>	<u>Q.</u>	<u>It was still on the stall?</u>
<u>11:24:04</u>	<u>21</u>	<u>A.</u>	<u>Yes.</u>
<u>11:24:05</u>	<u>22</u>	<u>Q.</u>	<u>At the end of your employment, it was still on</u>
<u>11:24:08</u>	<u>23</u>		<u>the stall?</u>
<u>11:24:12</u>	<u>24</u>	<u>A.</u>	<u>That I know. Yes, it was.</u>
11:24:14	25	Q.	Did you always go to the same bathroom in the

11:24:17 1 Fremont factory?

11:24:21 2 A. No.

11:24:22 3 Q. Okay. Which bathroom did you see this in?

11:24:26 4 A. The bathroom that's located between the

11:24:40 5 conveyance and the production floor. The other bathroom

11:24:47 6 is located in between the --I believe it's the battery

11:24:57 7 line and the production floor.

11:25:03 8 Q. Just one bathroom?

11:25:04 9 A. No. There's more than one bathroom.

11:25:09 10 Q. I'm sorry. Did you see the N-word written in
11:25:13 11 just one bathroom?

11:25:14 12 A. No.

11:25:14 13 Q. You saw it in two bathrooms?

11:25:17 14 A. No.

11:25:18 15 Q. How many bathrooms did you see the N-word
11:25:21 16 written in?

11:25:28 17 A. About four bathrooms.

11:25:32 18 Q. So one of them was on the conveyance -- near the
11:25:40 19 conveyance area on the production floor; correct?

11:25:44 20 A. Yes.

11:25:44 21 Q. And the second one was in the battery area on
11:25:49 22 the production floor?

11:25:50 23 A. Yes.

11:25:52 24 Q. Where are the other bathrooms that you saw the
11:25:57 25 N-word written in?

11:26:00	1	A. <u>There's another bathroom that I saw. I think</u>
11:26:05	2	<u>it's called the stater line. I'm not 100 percent sure</u>
11:26:09	3	<u>what that line was called.</u>
11:26:12	4	Q. <u>Also on the production floor?</u>
11:26:15	5	A. <u>All the bathrooms are used for the production</u>
11:26:19	6	<u>workers.</u>
11:26:22	7	Q. What other bathrooms did you see the N-word
11:26:26	8	written inside the stall?
11:26:33	9	A. Can't be 100 percent sure where the bathroom was
11:26:41	10	located but...
11:26:44	11	Q. So the first time you saw the N-word written
11:26:49	12	inside the bathroom stall, was that before or after you
11:26:54	13	saw the picture that you described that you sent to
11:26:57	14	CitiStaff?
11:26:58	15	A. Before.
11:27:00	16	Q. How long before?
11:27:09	17	A. I would say my second day of employment.
11:27:23	18	Q. And which bathroom was the -- which bathroom did
11:27:28	19	you see the N-word written in on your second day of
11:27:33	20	employment?
11:27:35	21	A. The bathroom between conveyance and the
11:27:39	22	production floor.
11:27:40	23	Q. And when did you see the N-word written in the
11:27:46	24	bathroom stall in the battery bathroom?
11:27:54	25	A. I can't be sure of the time.

11:27:56	1	Q.	How long after you had been working there?
11:28:13	2	A.	I can't be sure.
11:28:15	3	Q.	But the first time you saw it was on your second
11:28:24	4		day of employment?
11:28:25	5	A.	Yes, ma'am.
11:28:26	6	Q.	And what about at the stater line? Am I saying
11:28:31	7		that right? Stater line?
11:28:32	8	A.	I believe that's what it is.
11:28:34	9	Q.	When did you see that N-word written in the
11:28:39	10		bathroom stall in the stater line bathroom?
11:28:42	11	A.	I can't recall.
11:28:45	12	Q.	But it was after your second day of employment?
11:28:48	13	A.	Yes.
11:28:48	14	Q.	Was it before you saw the picture that you you
11:28:53	15		sent to CitiStaff?
11:28:55	16	A.	Yes.
11:29:06	17	Q.	Okay. Did you only report the N-word in any
11:29:10	18		bathroom stall to Romero on one occasion?
11:29:14	19	A.	No.
<u>11:29:15</u>	<u>20</u>	<u>Q.</u>	<u>How many times did you report the N-word in the</u>
<u>11:29:18</u>	<u>21</u>		<u>bathroom stall to Romero?</u>
<u>11:29:25</u>	<u>22</u>	<u>A.</u>	<u>Three to seven times.</u>
11:29:34	23	Q.	Did you tell him where it was?
11:29:39	24	A.	Yes.
11:29:42	25	Q.	Did you tell him about all of the different

11:32:02	1	A.	Yes.
11:32:03	2	Q.	What did you say?
11:32:06	3	A.	That some of the employees were calling me the
11:32:22	4		N-word.
<u>11:32:24</u>	<u>5</u>	<u>Q.</u>	<u>And how many times did you tell Ed Romero that</u>
<u>11:32:34</u>	<u>6</u>		<u>some employees were calling you the N-word?</u>
<u>11:32:41</u>	<u>7</u>	<u>A.</u>	<u>Probably three to seven times.</u>
11:32:49	8	Q.	Was this on the same occasion that you discussed
11:32:52	9		the bathroom stall?
11:33:00	10	A.	Yes.
11:33:09	11	Q.	And what did -- did you say anything else to Ed
11:33:13	12		Romero when you discussed both the N-word on the
11:33:17	13		bathroom stall and employees calling you the N-word in
11:33:22	14		these three to seven times?
11:33:24	15	A.	That they were also telling me to go back to
11:33:30	16		Africa.
11:33:30	17	Q.	You told Ed Romero that?
11:33:33	18	A.	Yes.
11:33:37	19	Q.	Did you tell him who was calling you the N-word?
11:33:44	20	A.	I didn't know all their names.
11:33:48	21	Q.	So that's a "no"?
11:33:59	22		MR. ORGAN: Objection. Compound.
11:34:01	23		THE WITNESS: I pointed out a couple of them.
11:34:10	24		BY MS. ANTONUCCI:
11:34:11	25	Q.	Did you tell him any names at all?

11:34:14	1	A.	I didn't know their names.
11:34:18	2	Q.	Do you know their names now?
11:34:21	3	A.	No.
11:34:45	4	Q.	How many people were calling you the N-word?
11:34:52	5	A.	Two of the supervisors and a few other
11:35:02	6		employees.
11:35:12	7	Q.	Do you know the names of the supervisors?
11:35:16	8	A.	Yes.
11:35:17	9	Q.	And who are they?
11:35:19	10	A.	Robert -- I don't know his last name -- and
11:35:26	11		Ramon Martinez.
11:35:36	12	Q.	And you said a few other employees. Do you know
11:35:38	13		their names?
11:35:42	14	A.	No.
11:35:45	15	Q.	By "few," how many employees were calling you
11:35:48	16		the N-word?
11:36:06	17	A.	I'm going to to say around -- about 8 to 10.
<u>11:36:19</u>	<u>18</u>	<u>Q.</u>	<u>Okay. How many times did Robert call you the</u>
<u>11:36:29</u>	<u>19</u>		<u>N-word?</u>
<u>11:36:32</u>	<u>20</u>	<u>A.</u>	<u>I can't recall.</u>
<u>11:36:34</u>	<u>21</u>	<u>Q.</u>	<u>Was it less than five?</u>
<u>11:36:44</u>	<u>22</u>	<u>A.</u>	<u>No.</u>
<u>11:36:44</u>	<u>23</u>	<u>Q.</u>	<u>Was it more than five?</u>
<u>11:36:46</u>	<u>24</u>	<u>A.</u>	<u>Yes.</u>
<u>11:36:46</u>	<u>25</u>	<u>Q.</u>	<u>Was it less than 10?</u>

<u>11:36:52</u>	<u>1</u>	<u>A.</u>	<u>No.</u>
<u>11:36:54</u>	<u>2</u>	<u>Q.</u>	<u>Was it less than 15?</u>
<u>11:37:01</u>	<u>3</u>	<u>A.</u>	<u>I can't give you an exact number.</u>
<u>11:37:05</u>	<u>4</u>	<u>Q.</u>	<u>Was it somewhere between 10 and 15?</u>
<u>11:37:09</u>	<u>5</u>	<u>A.</u>	<u>I can't give you an exact number.</u>
<u>11:37:11</u>	<u>6</u>	<u>Q.</u>	<u>Okay. I don't need an exact number. I just</u>
<u>11:37:14</u>	<u>7</u>		<u>need an estimate to the best of your recollection.</u>
<u>11:37:31</u>	<u>8</u>	<u>A.</u>	<u>I'd say other 30 times.</u>
<u>11:37:41</u>	<u>9</u>	<u>Q.</u>	<u>And how many times did Ramon Martinez call you</u>
<u>11:37:44</u>	<u>10</u>		<u>the N-word?</u>
<u>11:37:45</u>	<u>11</u>	<u>A.</u>	<u>More than 30 times.</u>
<u>11:37:55</u>	<u>12</u>	<u>Q.</u>	<u>Is there anything you can describe to me about</u>
<u>11:37:58</u>	<u>13</u>		<u>the 8 to 10 employees that called you that -- called you</u>
<u>11:38:01</u>	<u>14</u>		<u>the N-word?</u>
<u>11:38:08</u>	<u>15</u>	<u>A.</u>	<u>They were just working on the production floor,</u>
<u>11:38:12</u>	<u>16</u>		<u>the battery line.</u>
<u>11:38:16</u>	<u>17</u>	<u>Q.</u>	<u>All 8 to 10 were working on the battery line?</u>
<u>11:38:20</u>	<u>18</u>	<u>A.</u>	<u>Either production or the battery line.</u>
<u>11:38:40</u>	<u>19</u>	<u>Q.</u>	<u>Were any of them in recycling?</u>
<u>11:38:45</u>	<u>20</u>	<u>A.</u>	<u>Possible.</u>
<u>11:39:01</u>	<u>21</u>	<u>Q.</u>	<u>What race is Robert?</u>
<u>11:39:04</u>	<u>22</u>	<u>A.</u>	<u>Hispanic.</u>
<u>11:39:07</u>	<u>23</u>	<u>Q.</u>	<u>And what about Ramon?</u>
<u>11:39:09</u>	<u>24</u>	<u>A.</u>	<u>Hispanic also.</u>
<u>11:39:12</u>	<u>25</u>	<u>Q.</u>	<u>And what about the 8 to 10 employees?</u>

11:53:09	1	before Demetric started working there?
11:53:13	2	A. I can't recall.
11:53:22	3	Q. Did Robert ever tell you to go back to Africa?
11:53:42	4	A. I can't recall.
<u>11:53:45</u>	<u>5</u>	<u>Q. Did Ramon ever call you the N-word?</u>
<u>11:53:51</u>	<u>6</u>	<u>A. Yes.</u>
<u>11:53:52</u>	<u>7</u>	<u>Q. How many times?</u>
<u>11:53:56</u>	<u>8</u>	<u>A. More than 30.</u>
11:54:12	9	Q. Can you tell me about all the different contexts
11:54:16	10	in which Ramon called you the N-word?
11:54:19	11	MR. ORGAN: Objection. Compound.
11:54:21	12	THE WITNESS: I can't recall all the different
11:54:25	13	contexts.
11:54:26	14	BY MS. ANTONUCCI:
11:54:27	15	Q. Can you recall any of the statements where Ramon
11:54:30	16	used the N-word?
11:54:40	17	A. Yes.
11:54:45	18	Q. Describe the statement in which Ramon used the
11:54:50	19	N-word.
11:54:51	20	MR. ORGAN: Objection. Compound.
11:54:57	21	THE WITNESS: One time he told me, "I hate you"
11:55:00	22	and put the N on it.
11:55:08	23	BY MS. ANTONUCCI:
11:55:08	24	Q. And that was just one time?
11:55:10	25	A. It was more than one time at that particular

01:04:53 1 MR. ORGAN: Objection. Compound. Overbroad.

01:04:58 2 THE WITNESS: That I can recall at this time.

01:05:02 3 BY MS. ANTONUCCI:

01:05:06 4 Q. And I know you can't recall any of the names of
01:05:09 5 the 8 to 10 employees that used the N-word, but can you
01:05:15 6 recall the context in which they used it?

01:05:19 7 A. Malicious.

01:05:21 8 Q. Can you tell me, did they use it in a statement?

01:05:32 9 A. Yes.

01:05:32 10 Q. What statements can you recall that they used
01:05:36 11 the N-word in?

01:05:53 12 A. "Hey, you, N." That's all I can remember at
01:06:11 13 this time.

01:06:11 14 MR. ORGAN: Counsel, can we have an agreement
01:06:14 15 that when he's using the initial "N," he's using that as
01:06:19 16 an abbreviation for the word "Nigger"?

01:06:22 17 BY MS. ANTONUCCI:

01:06:23 18 Q. Is that how you're using that word?

01:06:25 19 A. Yes.

01:06:25 20 Q. "Hey, you, N." Was there any other -- besides
01:06:42 21 "Hey, you N," are there any other contexts or statements
01:06:42 22 in which these 8 to 10 employees used the N-word?

01:07:05 23 A. Not that I recall at this time.

01:07:05 24 Q. On how many occasions did these 8 to 10
01:07:10 25 employees use the N-word?

<u>01:29:18</u>	<u>1</u>	<u>Q.</u>	<u>And who's Tom Kawasaki?</u>
<u>01:29:21</u>	<u>2</u>	<u>A.</u>	<u>Supervisor.</u>
<u>01:29:23</u>	<u>3</u>	<u>Q.</u>	<u>What did he supervise?</u>
<u>01:29:29</u>	<u>4</u>	<u>A.</u>	<u>At that time, the elevator staff.</u>
<u>01:29:32</u>	<u>5</u>	<u>Q.</u>	<u>Did you report to Tom Kawasaki?</u>
<u>01:29:43</u>	<u>6</u>	<u>A.</u>	<u>Yes.</u>
<u>01:29:44</u>	<u>7</u>	<u>Q.</u>	<u>For how long?</u>
<u>01:29:47</u>	<u>8</u>	<u>A.</u>	<u>Till he left.</u>
<u>01:29:54</u>	<u>9</u>	<u>Q.</u>	<u>And when was that?</u>
<u>01:29:55</u>	<u>10</u>	<u>A.</u>	<u>I don't recall.</u>
01:29:57	11	Q.	How long after you arrived at Tesla did Tom
01:30:03	12		Kawasaki leave?
01:30:05	13	A.	I don't recall.
01:30:07	14	Q.	Do you recall if it was more than a couple of
01:30:09	15		weeks?
01:30:12	16	A.	It's more than a couple weeks. He was there for
01:30:22	17		a while.
<u>01:30:25</u>	<u>18</u>	<u>Q.</u>	<u>And at some point, you started reporting to</u>
<u>01:30:28</u>	<u>19</u>		<u>Ed Romero; is that right?</u>
<u>01:30:29</u>	<u>20</u>	<u>A.</u>	<u>Yes.</u>
01:30:30	21	Q.	Did you report to anyone other than Tom Kawasaki
01:30:34	22		or Ed Romero while you were assigned at Tesla?
01:30:39	23	A.	No.
01:30:48	24	Q.	You said you went through an orientation at
01:30:52	25		Tesla?

01:46:01 1 THE WITNESS: The departments overlap.

01:46:01 2 BY MS. ANTONUCCI:

01:46:04 3 Q. How did they overlap?

01:46:16 4 A. Whatever the upstairs needed, the elevator would

01:46:19 5 supply it. They would bring it in from the warehouse.

01:46:33 6 Q. So at the beginning of your assignment at Tesla,

01:46:36 7 you worked as an elevator operator; right?

01:46:39 8 A. Yes.

01:46:40 9 Q. And what were your responsibilities as an

01:46:42 10 elevator operator?

01:46:47 11 A. Move material and people.

01:46:58 12 Q. On the elevator?

01:47:01 13 A. Yes.

01:47:05 14 Q. So is it correct that it was your responsibility

01:47:08 15 to pick up material that was on one floor, load it into

01:47:15 16 the elevator, go up or down the elevator, and unload it

01:47:19 17 onto another floor?

01:47:20 18 A. Yes.

01:47:22 19 Q. Does that accurately describe your job as an

01:47:26 20 elevator operator?

01:47:27 21 A. Yes.

01:47:27 22 Q. Were there any other responsibilities involved

01:47:30 23 in your job as an elevator operator?

01:47:34 24 A. No.

01:47:39 25 Q. What kind of material were you responsible for

01:47:43	1	loading/unloading from the elevator?
<u>01:47:54</u>	<u>2</u>	<u>A. Drive units, battery cells, vehicles.</u>
<u>01:48:08</u>	<u>3</u>	<u>Q. Anything else?</u>
<u>01:48:10</u>	<u>4</u>	<u>A. Boxes and crates.</u>
01:48:20	5	Q. And were these materials loaded on carts?
01:48:27	6	A. I don't understand.
01:48:28	7	Q. The materials that you were supposed to load and
01:48:30	8	unload onto the elevator, did you wheel them in, or did
01:48:34	9	you actually have to lift and carry them in, or both?
01:48:39	10	A. Both. Use a pallet jack, sometimes a pallet
01:48:53	11	rider.
01:49:03	12	Q. How many elevators were there in the factory?
01:49:09	13	A. Three.
01:49:09	14	Q. And did you --
01:49:13	15	A. I take that back. Four.
01:49:15	16	Q. During the time you were assigned at Tesla, did
01:49:18	17	you only operate one elevator?
01:49:23	18	A. I operated all four.
01:49:32	19	Q. Who did you work with when you were an elevator
01:49:36	20	operator at Tesla?
01:49:49	21	A. I can't remember all the guys' names now.
01:49:53	22	Q. Do you remember any of the names of your
01:49:56	23	coworkers when you were assigned to work at Tesla?
01:49:59	24	A. Lamar Patterson, Rothaj Foster. But the rest of
01:50:09	25	the names escape me. Sorry.

03:00:32 1 been avoided if either of them would have used the chain
03:00:35 2 of command instead of creating a new one amongst
03:00:39 3 themselves. Devin Burkhart."

03:00:39 4 Q. Who is Devin Burkhart?

03:00:41 5 A. Devin was one of the guys that I supervised in
03:00:44 6 the elevator.

03:00:57 7 Q. And you -- when you received that e-mail from
03:00:59 8 Devin, you forwarded it to Tom?

03:01:01 9 A. Yes.

03:01:03 10 Q. Did you do anything else in response to that
03:01:06 11 e-mail?

03:01:10 12 A. I talked to Hilda.

03:01:14 13 Q. And what did you talk to Hilda about?

03:01:16 14 A. I let her know that because of the slow
03:01:19 15 production that the elevator on that side was closed and
03:01:23 16 everything had to be brought to this side. My immediate
03:01:28 17 supervisor at that time was Tom Kawasaki, closed the
03:01:32 18 elevator and told us not to operate that elevator, and
03:01:38 19 she got upset and went to go get this Aron guy.

03:01:52 20 Q. And did you speak with Aron?

03:01:55 21 A. No.

03:01:57 22 Q. So she just reported it to Aron?

03:01:59 23 A. No. Her and Aron came back. Aron said
03:02:03 24 something and I just walked away.

03:02:04 25 Q. What did Aron say?

<u>03:02:07</u>	<u>1</u>	<u>A.</u>	<u>He had just started to get up in me.</u>
<u>03:02:21</u>	<u>2</u>	<u>Q.</u>	<u>And where were you when he said that?</u>
<u>03:02:38</u>	<u>3</u>	<u>A.</u>	<u>On the stairs by the bathroom. He kept</u>
<u>03:02:42</u>	<u>4</u>		<u>following me trying to get me to open up the elevator.</u>
<u>03:02:47</u>	<u>5</u>	<u>Q.</u>	<u>Was anyone else present?</u>
<u>03:02:50</u>	<u>6</u>	<u>A.</u>	<u>I don't know. I was on the stairs.</u>
<u>03:02:52</u>	<u>7</u>	<u>Q.</u>	<u>Did you respond to him?</u>
<u>03:03:09</u>	<u>8</u>	<u>A.</u>	<u>No. I didn't want the situation to keep</u>
<u>03:03:13</u>	<u>9</u>		<u>escalating, so I kept going.</u>
<u>03:03:30</u>	<u>10</u>	<u>Q.</u>	<u>And do you know what race Aron Deharto is?</u>
<u>03:03:33</u>	<u>11</u>	<u>A.</u>	<u>I can't be for sure.</u>
<u>03:03:36</u>	<u>12</u>	<u>Q.</u>	<u>Do you know what race Jessie Leite is?</u>
<u>03:03:41</u>	<u>13</u>	<u>A.</u>	<u>Unless I saw a picture, I couldn't be for sure.</u>
<u>03:03:45</u>	<u>14</u>	<u>Q.</u>	<u>What about Hilda Navarro?</u>
<u>03:03:47</u>	<u>15</u>	<u>A.</u>	<u>She was Hispanic.</u>
<u>03:03:54</u>	<u>16</u>	<u>Q.</u>	<u>Did you report this "All you Ns are starting to</u>
<u>03:03:59</u>	<u>17</u>		<u>get uppity" comment to anyone?</u>
<u>03:04:04</u>	<u>18</u>	<u>A.</u>	<u>Tom Kawasaki.</u>
<u>03:04:09</u>	<u>19</u>	<u>Q.</u>	<u>And what did Tom say?</u>
<u>03:04:12</u>	<u>20</u>	<u>A.</u>	<u>"Try to avoid him."</u>
<u>03:04:28</u>	<u>21</u>	<u>Q.</u>	<u>Do you know if he did anything after that?</u>
<u>03:04:37</u>	<u>22</u>		<u>MR. ORGAN: Objection. Vague and ambiguous as</u>
<u>03:04:39</u>	<u>23</u>		<u>to "he."</u>
<u>03:04:39</u>	<u>24</u>		<u>BY MS. ANTONUCCI:</u>
<u>03:04:41</u>	<u>25</u>	<u>Q.</u>	<u>Do you know if Tom did anything after that?</u>

03:23:05	1	A.	My understanding is that he was a liaison.
03:23:13	2	Q.	Liaison with who?
03:23:16	3	A.	Tesla and nextSource, I believe.
<u>03:23:23</u>	<u>4</u>	<u>Q.</u>	<u>Did you understand that you could complain to</u>
<u>03:23:32</u>	<u>5</u>		<u>Wayne Jackson if you needed to about any concerns you</u>
<u>03:23:35</u>	<u>6</u>		<u>had in the workplace?</u>
<u>03:23:36</u>	<u>7</u>		<u>MR. ORGAN: Objection. Vague and ambiguous.</u>
<u>03:23:40</u>	<u>8</u>		<u>THE WITNESS: If he was around.</u>
03:23:40	9	BY MS. ANTONUCCI:	
03:23:43	10	Q.	And he was on-site?
03:23:46	11	A.	Rarely.
03:23:50	12	Q.	How often would you say he was on-site?
03:23:58	13	A.	I don't know.
03:24:01	14	Q.	How many times a week?
03:24:03	15	A.	I don't know.
03:24:29	16	Q.	And this incident with Ramon, you know, right
03:24:33	17		outside, inside of the elevator, occurred around
03:24:36	18		October 17, 2015?
03:24:40	19	A.	Yes. That's what the date is on the -- on the
03:24:44	20		e-mail.
03:24:45	21	Q.	And was that around 4:45 a.m.?
03:24:49	22	A.	Yes.
03:24:51	23	Q.	So you sent this e-mail right after it happened?
03:24:55	24	A.	I sent the e-mail out at 6:08 a.m., ma'am.
03:25:02	25	Q.	So about an hour and a half after it happened?

04:53:06 1 BY MS. ANTONUCCI:

04:53:08 2 Q. You said you left because of the harassment.

04:53:11 3 A. Yes.

04:53:11 4 Q. You said you left because of your mom.

04:53:15 5 A. Yes.

04:53:15 6 Q. Are there any other reasons that you left your
04:53:19 7 assignment at Tesla?

04:53:22 8 A. Other than two reasons. No.

04:53:29 9 Q. Exhibit 21 is an e-mail, Bates-stamped at the
04:53:38 10 bottom 317, and it's dated 3/2/2016. And at the bottom
04:53:50 11 it says it's from Ed Romero to Wayne Jackson. It says,
04:53:54 12 "Wayne, I appreciate you taking action with this
04:53:56 13 situation involving Owen and Troy. I understood from
04:53:59 14 you that they had received a final written notice
04:54:03 15 informing them that any negative incident involving them
04:54:07 16 would lead to their immediate termination. It is vital
04:54:11 17 that our elevator operators be professional, courteous,
04:54:18 18 responsive to our customers' needs and always provide
04:54:18 19 good customer service."

04:54:20 20 Do you see that?

04:54:20 21 A. Yes.

04:54:22 22 Q. Did you, in fact, receive a final written notice
04:54:25 23 informing you that any negative incident would lead to
04:54:30 24 your termination?

04:54:32 25 A. No. I didn't receive anything.

<u>04:54:35</u>	<u>1</u>	<u>Q. Did Wayne ever speak with you about good</u>
<u>04:54:42</u>	<u>2</u>	<u>customer service and any negative incident leading to</u>
<u>04:54:48</u>	<u>3</u>	<u>your termination?</u>
<u>04:54:50</u>	<u>4</u>	<u>MR. ORGAN: Objection. Compound.</u>
<u>04:54:51</u>	<u>5</u>	<u>THE WITNESS: Not that I can recall.</u>
<u>04:54:51</u>	<u>6</u>	<u>BY MS. ANTONUCCI:</u>
<u>04:54:52</u>	<u>7</u>	<u>Q. Did Wayne ever speak to you about giving a final</u>
<u>04:54:56</u>	<u>8</u>	<u>written notice to you?</u>
<u>04:55:00</u>	<u>9</u>	<u>A. No.</u>
04:55:09	10	Q. Did Wayne Jackson ever tell you that it was
04:55:12	11	critical for you to provide good customer service to
04:55:15	12	your customers?
04:55:16	13	A. Not that I recall. No.
04:55:19	14	Q. Did Wayne ever tell you --instruct you to follow
04:55:22	15	direction and follow up with Ed or him if you had any
04:55:29	16	issues or concerns?
04:55:31	17	MR. ORGAN: Objection. Compound.
04:55:33	18	THE WITNESS: I don't recall.
04:55:33	19	BY MS. ANTONUCCI:
<u>04:55:57</u>	<u>20</u>	<u>Q. Who is Troy Dennis?</u>
<u>04:55:57</u>	<u>21</u>	<u>A. I don't know. Unless I can see him or a picture</u>
<u>04:56:04</u>	<u>22</u>	<u>or something, I wouldn't know.</u>
04:56:39	23	(EXHIBIT 22 was marked for identification.)
04:56:39	24	BY MS. ANTONUCCI:
04:56:43	25	Q. Exhibit 22 is an e-mail from Monica DeLeon at

1 I, CANDY NEWLAND, CSR No. 14256, certify that the
2 foregoing proceedings were taken before me at the time
3 and place herein set forth, at which time the witness
4 was duly sworn, and that the transcript is a true record
5 of the testimony so given.

6
7 Witness review, correction, and signature was

8 (X) by Code.

(X) requested.

9 () waived.

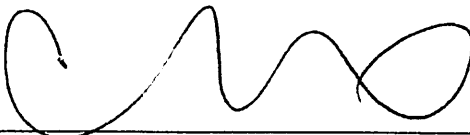
() not requested.

10 () not handled by the deposition officer due to party
11 stipulation.

12
13 The dismantling, unsealing, or unbinding of the
14 original transcript will render the reporter's
15 certificate null and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties nor of any of
19 the parties.

20 Dated this 29TH day of May, 2018.

21
22
23
24 

25 CANDY NEWLAND, CSR 14256

Exhibit

2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ,
and LAMAR PATTERSON,

Plaintiffs,

vs.

No. 3:17-cv-06748-WHO

TESLA, INC. Dba TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC.; and DOES 1-50,
inclusive,

Defendants.

_____/ /

DEPOSITION OF EDWARD ROMERO

November 30, 2018

Reported by:

Bridget M. Mattos, CSR No. 11410

EDWARD ROMERO

November 30, 2018

Page 4

1 A P P E A R A N C E S

2

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9

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17

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19

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21

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24

25

EDWARD ROMERO

November 30, 2018

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1 Q. Well, you received training on what is
2 harassing or discriminatory conduct; right?

3 A. Correct.

4 Q. And would you agree if someone used the word
5 "nigger" or "nigga" in the workplace, that would be
6 inappropriate conduct; right?

7 A. In general, yes, it would be very
8 inappropriate.

9 Q. Do you find those terms offensive?

10 A. I do.

11 Q. So instead of using "nigger" or "nigga," I'm
12 going to use the "'N' word" okay?

13 A. Okay.

14 Q. Is that fair enough?

15 A. Yeah, because the other words kind of make me
16 feel uncomfortable too.

17 Q. Sure. I bet they do.

18 So did you ever observe -- and I mean
19 personally observe, not be told about -- but did you
20 ever observe anyone using the "N" word at the Tesla
21 factory when you were there?

22 A. No.

23 Q. Did you ever -- were you ever told or
24 informed that someone was using the "N" word at the
25 factory?

EDWARD ROMERO

November 30, 2018

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1 **A. I was informed that there was language that**
2 **offended someone or hurt someone's feelings, but I did**
3 **not hear it directly.**

4 Q. And how many employees gave you
5 information -- or strike that.

6 How many employees did you hear about who
7 claimed to be offended or hurt by language at the
8 Tesla factory?

9 **A. I can only think of one.**

10 Q. And who is the one that you can think of?

11 **A. Owen Diaz.**

12 Q. And how did you know Owen Diaz?

13 **A. After I started working for Tesla, within a**
14 **few weeks they asked me to help them with the elevator**
15 **services.**

16 Q. So this was while you were at nextSource, or
17 this is when you were at Tesla?

18 **A. This is when I became a Tesla employee.**

19 Q. So that was sometime in October then of 2015?

20 **A. I would say that in October, they were -- I**
21 **was dealing more with kind of the recycling and being**
22 **introduced into the elevator services.**

23 Q. So sometime in October of 2015, or
24 approximately October of 2015, you started taking over
25 some responsibility for overseeing the elevators?

EDWARD ROMERO

November 30, 2018

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1 **A. Yeah. They're big, large production**
2 **elevators.**

3 Q. Where are these elevators in the plant?

4 **A. They're on the lower floor, in the center of**
5 **the production floor.**

6 Q. And was there a contractor that was managing
7 the elevators?

8 **A. The elevator services to that point were**
9 **being handled by Jamie Salazar.**

10 Q. By who?

11 **A. Jamie, with a J.**

12 Q. J-A-M-I-E?

13 **A. Uh-huh.**

14 Q. Salazar?

15 **A. Correct.**

16 Q. And what was Jamie Salazar's position?

17 **A. He was a -- you know what, I don't know**
18 **officially what his title was. I was told that he was**
19 **the recycling manager or supervisor.**

20 Q. And was he a Tesla employee, or was he
21 working for --

22 **A. He was a Tesla employee.**

23 Q. And the people who were actually operating
24 the elevators, were they Tesla employees?

25 **A. They were all contract employees.**

EDWARD ROMERO

November 30, 2018

Page 68

1 Q. Do you know who they worked for?

2 A. Again, I think it was through nextSource, but
3 it might have been some City Staff and other agencies
4 also.

5 Q. And the elevators, this was the way that
6 products got from either the lower level to the upper
7 level or the upper level to the lower level; is that
8 right?

9 A. Yes. Moving production materials for the
10 building of cars.

11 Q. These are, like, heavy-duty elevators, you
12 said; right?

13 A. Yes, they're humongous, probably the size of
14 your -- half of your office here.

15 Q. Okay. I haven't been to the Tesla factory,
16 so tell me, pretty much, what was the role of the
17 elevators? What were they supposed to do?

18 A. Okay. The elevators were there to move
19 product, and actually the primary responsibility was
20 to move material up and down for the production -- the
21 construction of cars. Okay?

22 The group that I supervised, supervises the
23 two large elevators. And we had forklift drivers,
24 tugger drivers, who moved this material up and down
25 the elevators all day long. We had drop zones near

EDWARD ROMERO

November 30, 2018

Page 214

1 State of California)

2 County of Marin)

3

4 I, Bridget M. Mattos, hereby certify
5 that the witness in the foregoing deposition was by me
6 duly sworn to testify to the truth, the whole truth
7 and nothing but the truth in the within entitled
8 cause; that said deposition was taken at the time and
9 place herein named; that the deposition is a true
10 record of the witness's testimony as reported to the
11 best of my ability by me, a duly certified shorthand
12 reporter and disinterested person, and was thereafter
13 transcribed under my direction into typewriting by
14 computer; that the witness was given an opportunity to
15 read, correct and sign the deposition.

16 I further certify that I am not
17 interested in the outcome of said action nor connected
18 with or related to any of the parties in said action
19 nor to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunder
21 subscribed my hand on November 30, 2018.

22

23 BRIDGET M. MATTOS, CSR NO. 11410

24

25

Exhibit

3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ and
LAMAR PATTERSON, an individual,

Plaintiffs,

CONFIDENTIAL

vs.

No. 3:17-cv-06748-WHO
VOL II, pgs 187 - 292

TESLA, INC. DBA TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC. and DOES 1-10,
inclusive,

Defendants.

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

OWEN DIAZ

SAN FRANCISCO, CALIFORNIA

MONDAY, DECEMBER 3, 2018

Reported by:

GINA V. CARBONE, CSR #8249
RPR, RMR, CRR, CCRR
FILE NO.: 18-27207



1 Deposition of OWEN DIAZ, Volume II, taken
2 on behalf of Defendants at CONSTANGY, BROOKS, SMITH
3 & PROPHETE LLP, 351 California Street, Suite 200,
4 San Francisco, California 94104, commencing at
5 10:29 a.m. on Monday, December 3, 2018, before
6 Gina V. Carbone, Certified Shorthand Reporter
7 No. 8249, RPR, RMR, CRR, CCRR.

8
9 A P P E A R A N C E S

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10

11 ALSO PRESENT: Teresa Kossayian,
12 West Valley Staffing Group

13

Frank Quirarte, videographer

14

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10:50:31 1 and Tom Kawasaki as people who might have
10:50:34 2 information regarding the harassing, offensive, and
10:50:37 3 inappropriate conduct that you experienced while you
10:50:39 4 were working at the Tesla factory. Anybody else?

10:50:54 5 A. At this particular time, I can't recall.

10:51:12 6 Q. What information do you believe Michael
10:51:13 7 Wheeler has about your claims?

10:51:21 8 A. He was present when the picaninny was
10:51:32 9 found.

10:51:34 10 Michael Wheeler, himself, was a victim of
10:51:41 11 said harassment. They had wiped feces on the cart
10:51:48 12 that he was using to harass him. And you would have
10:51:54 13 to talk to Michael Wheeler. He can get more in
10:51:59 14 detail with that.

10:52:00 15 Q. So you said he was present during the,
10:52:02 16 quote, picaninny drawing that was found, correct?

10:52:09 17 A. Yes.

10:52:09 18 Q. And you said he "was a victim of said
10:52:12 19 harassment." What harassment was he a victim of?

10:52:22 20 A. Discriminatory racial.

10:52:24 21 Q. What discriminatory or racial conduct?

10:52:27 22 A. Michael Wheeler is an African-American man.

10:52:30 23 Q. And what conduct do you believe that he was
10:52:33 24 a victim of?

10:52:41 25 A. I just said that they had smeared feces

11:03:52 1 Q. Anything else?

11:03:56 2 A. I can't recall at this moment.

11:04:01 3 Q. What did you tell him about the picaninny?

11:04:08 4 A. I had called him to see if -- what are his
11:04:18 5 memories because he was out on the recycling --
11:04:22 6 doing the recycling at that particular point. He
11:04:24 7 had came upstairs, him and I believe it was Israel,
11:04:32 8 or maybe Ishmael. I believe it was Israel.

11:04:37 9 They came upstairs. I had explained to
11:04:44 10 them where I was sitting at. I had to leave and
11:04:47 11 deal with the elevator staff, but yes.

11:04:57 12 Q. Do you know what actions Michael Wheeler
11:04:59 13 took as a result of you telling him about the
11:05:01 14 picaninny?

11:05:08 15 A. No.

11:05:09 16 Q. And by "the picaninny," are you referring
11:05:11 17 to the drawing that was on the bale of cardboard
11:05:15 18 that you told me about during your last deposition?

11:05:18 19 A. Yes.

11:05:39 20 Q. I believe you said Tom Kawasaki also has
11:05:42 21 information about your claims?

11:05:44 22 A. Yes.

11:05:44 23 Q. What information do you believe Tom
11:05:46 24 Kawasaki has?

11:05:59 25 A. It was the -- I complained to Tom Kawasaki

11:06:04 1 about a guy -- I think Judy -- Jul- -- I can't
11:06:09 2 remember his last name. I think it started with a
11:06:12 3 T. This guy was calling me the N-word and also a
11:06:17 4 porch monkey.

11:06:33 5 Q. Anything else that you believe Tom Kawasaki
11:06:37 6 knows about your claims?

11:06:42 7 A. He would know that I complained verbally to
11:06:51 8 hissself and Ed Romero. And I believe he probably
11:06:59 9 tagged in a few of the upper management of Tesla in
11:07:10 10 his email alerting them of the situation.

11:07:15 11 Q. When you say you complained to him and Ed
11:07:17 12 Romero, do you mean about this Judy person calling
11:07:20 13 you the N-word and a porch monkey?

11:07:24 14 A. Yes.

11:07:25 15 Q. Did you complain to Tom Kawasaki about
11:07:26 16 anything else?

11:07:30 17 A. Not that I can recall at this moment.

11:07:35 18 Q. Is that a no?

11:07:39 19 A. Not that I can recall.

11:07:52 20 Q. Did you provide any witnesses to Tom
11:07:56 21 Kawasaki that -- strike that.

11:08:00 22 Were there any witnesses to Judy Timbreza
11:08:04 23 calling you the N-word and a porch monkey?

11:08:11 24 A. It was him and a few of his friends around
11:08:15 25 at that particular point.

11:08:17 1 Q. Do you know the names of any of the
11:08:19 2 friends?

11:08:19 3 A. I didn't even know that guy's name until I
11:08:26 4 pointed him out to Mr. Kawasaki.

11:08:39 5 Q. How many friends were around him when he
11:08:41 6 called you the N-word and porch monkey?

11:08:49 7 A. I can't recall.

11:09:00 8 Q. Did you recognize any of the people around
11:09:01 9 him?

11:09:05 10 A. I don't understand the question.

11:09:07 11 Q. Can you identify any of the people that
11:09:09 12 were around when Mr. Timbreza called you the N-word
11:09:15 13 and porch monkey?

11:09:18 14 A. I would have to see a photo, but it's a
11:09:20 15 possibility I can.

11:09:22 16 Q. Can you specifically identify any of the
11:09:24 17 people by name?

11:09:28 18 A. No, I would not know their names.

11:09:38 19 Q. Why do you believe these people were his
11:09:40 20 friends?

11:09:44 21 A. The guy had been getting into the elevator
11:09:46 22 with him and his guys, so they would ride up the
11:09:51 23 elevator. He would say something in Spanish and
11:09:59 24 another thing, and I couldn't kind of catch it, so I
11:10:02 25 recorded it. I do not have the recording anymore.

11:10:07 1 I wish I would have kept it.

11:10:09 2 But -- and I had translated it through
11:10:15 3 Google because how they were doing it, he would say
11:10:17 4 it, and I would -- he was like yeah, yeah, yeah,
11:10:22 5 yeah, yeah, and I would nod like yes, yes. And him
11:10:27 6 and his friends would just bust up laughing.

11:10:30 7 And so after a little while of this, I got
11:10:34 8 pretty curious of what they were saying. That's why
11:10:37 9 I recorded it, and later on I had Googled the
11:10:41 10 translation and found out that they were calling me
11:10:44 11 a porch monkey and such.

11:10:51 12 Q. Okay. So did this -- where exactly did
11:10:56 13 this incident happen where he called you the N-word
11:10:58 14 and porch monkey?

11:11:00 15 A. We were in the elevator.

11:11:01 16 Q. Was the elevator closed or open?

11:11:06 17 A. Closed. We were -- sometimes it was open;
11:11:08 18 sometimes it was closed.

11:11:12 19 Q. When the words were actually said, was the
11:11:15 20 elevator open or closed?

11:11:17 21 A. Sometimes it was open; sometimes it was
11:11:19 22 closed. We were riding up in the elevator
11:11:22 23 sometimes. Sometimes we were loading things into
11:11:24 24 the elevator and he would say it. And, you know, at
11:11:30 25 that point I would kind of like yeah, yeah, yeah,

12:59:31 1 supervisor?

12:59:32 2 A. I believe so.

12:59:34 3 Q. That's your best recollection?

12:59:35 4 A. Yes.

12:59:37 5 Q. What did he say about his supervisor?

12:59:45 6 A. I know his supervisor was calling him the
12:59:47 7 N-word.

12:59:53 8 Q. Do you recall who Demetric said called him
12:59:54 9 the N-word?

12:59:57 10 A. Supervisor.

01:00:00 11 Q. What supervisor? Did he give you any more
01:00:02 12 information about the identity of his supervisor
01:00:05 13 other than just to call him his supervisor?

01:00:11 14 A. I didn't know his name. Only Demetric
01:00:16 15 would know his name.

01:00:18 16 Q. How did Demetric identify the supervisor
01:00:22 17 when he --

01:00:23 18 MR. ORGAN: It's Demetric.

01:00:24 19 BY MR. HORTON:

01:00:24 20 Q. I'm sorry about that. I apologize.

01:00:26 21 A. That's okay. It's easy to mispronounce.
01:00:30 22 Can you repeat the question, please?

01:00:31 23 Q. Okay. How did Demetric describe the
01:00:34 24 supervisor that he said had called him the N-word?
01:00:40 25 What words did he use when he talked to you about

01:00:43 1 that?

01:00:52 2 A. He didn't have to describe him because I
01:00:54 3 was actually a witness to his supervisor calling him
01:00:58 4 and -- him the N-word.

01:01:00 5 MR. HORTON: Would you please read that
01:01:01 6 back. I had trouble understanding that.

01:01:09 7 (Record read as follows: He didn't have to
01:01:09 8 describe him because I was actually a
01:01:09 9 witness to his supervisor calling him
01:01:09 10 and -- him the N-word.)

01:01:12 11 BY MR. HORTON:

01:01:12 12 Q. Okay. Did you know who Demetric was
01:01:16 13 talking about when he said his supervisor was
01:01:19 14 calling him the N-word at Tesla?

01:01:27 15 MR. ORGAN: Objection. Vague and
01:01:29 16 ambiguous.

01:01:30 17 BY MR. HORTON:

01:01:30 18 Q. Do you understand my question?

01:01:32 19 MR. ORGAN: Calls for speculation.

01:01:34 20 THE WITNESS: No, I don't understand the
01:01:35 21 question.

01:01:36 22 BY MR. HORTON:

01:01:37 23 Q. All right. So Demetric told you that his
01:01:43 24 supervisor at Tesla was calling him the N-word; is
01:01:46 25 that correct?

1 I, GINA V. CARBONE, CSR No. 8249, RPR, RMR, CRR,
2 CCRR, certify: that the foregoing proceedings were taken
3 before me at the time and place herein set forth; at
4 which time the witness was duly sworn; and that the
5 transcript is a true record of the testimony so given.
6

7 Witness review, correction and signature was
8 (X) by code. (X) requested.
9 () waived. () not requested.
10 () not handled by the deposition officer due to party
11 stipulation.
12

13 The dismantling or unbinding of the original
14 transcript will render the reporter's certificate null
15 and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties, nor of any of
19 the parties.

20 Dated this 7th day of December , 2018 .
21

22 
23 _____
24 GINA V. CARBONE
25 CSR #8249, STATE OF CALIFORNIA

Exhibit

4

OWEN ORAPIO DIAZ, JR. VOLUME III
DIAZ vs TESLA, INC.

June 21, 2019
293

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

3
4 DEMETRIC DIAZ, OWEN DIAZ,) Case No. 3:17-CV-06748-WHO
and LAMAR PATTERSON,)

5)
6 Plaintiffs,)

7 vs.)

8 TESLA, INC. dba TESLA)
9 MOTORS, INC.; CITISTAFF)
SOLUTIONS, INC.; WEST)
10 VALLEY STAFFING GROUP;)
CHARTWELL STAFFING)
SERVICES, INC.;)
11 NEXTSOURCE, INC.;)
DOES 1-50, inclusive,)

12 Defendants.)
13 _____)
14

15 Volume III

16 DEPOSITION OF OWEN ORAPIO DIAZ, JR.

17 PAGES 293 THROUGH 441

18 SAN FRANCISCO, CALIFORNIA

19 JUNE 21, 2019
20
21
22
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24

25 REPORTED BY: MICHAEL CUNDY, CSR 12271

DEPOSITION OF OWEN ORAPIO DIAZ, JR., taken
at One Embarcadero Center, Suite 2050, San Francisco,
California, on Friday, June 21, 2019, at 9:33 A.M.,
before Michael Cundy, Certified Shorthand Reporter, in
and for the State of California.

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OWEN ORAPIO DIAZ, JR. VOLUME III
DIAZ vs TESLA, INC.

June 21, 2019
295

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13 ALSO PRESENT:

14 KEVEN McMAHON
15 VIDEOGRAPHER
16
17
18
19
20
21
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24
25

1 Tesla was it that Robert first told you to -- used 09:49:41
2 these words, "boy, hurry up"? 09:49:49

3 A I can't recall. 09:49:53

4 Q Were you still an elevator operator, or were 09:49:57
5 you a lead operator -- elevator operator when Robert 09:50:01
6 used these words towards you? 09:50:05

7 A I believe I was a lead. 09:50:10

8 Q Did Robert ever stop using those words 09:50:19
9 towards you during your employment -- well, during the 09:50:23
10 time that you worked at Tesla? 09:50:27

11 MS. AVLONI: Vague and ambiguous. 09:50:30

12 THE WITNESS: No, sir. 09:50:34

13 BY MR. ARANEDA: 09:50:36

14 Q Did you work with Robert throughout the time 09:50:36
15 that you worked at the Tesla factory? 09:50:39

16 MS. AVLONI: Vague and ambiguous. 09:50:41

17 THE WITNESS: Occasionally. 09:50:46

18 BY MR. ARANEDA: 09:50:51

19 Q Did you ever report Robert's use of the word 09:50:51
20 "boy" or "hurry up" to nextSource? 09:50:57

21 MS. AVLONI: Objection to the extent it calls 09:51:04
22 for speculation as to who was employed by nextSource. 09:51:05

23 THE WITNESS: I don't recall. 09:51:12

24 BY MR. ARANEDA: 09:51:15

25 Q Do you have an understanding of the 09:51:15

1 MS. AVLONI: Objection to the extent it calls 09:54:08
2 for speculation. 09:54:10
3 THE WITNESS: I don't recall. 09:54:16
4 BY MR. ARANEDA: 09:54:21
5 Q Did you ever report the use of the N-word 09:54:21
6 towards you by Ramon Martinez to anyone at Citistaff? 09:54:23
7 A I don't recall. 09:54:45
8 Q You testified earlier that you don't know how 09:54:45
9 you made it out alive. 09:54:48
10 What did you mean by that? 09:54:50
11 A When a person that's been bullying you 09:55:00
12 corners you and accosts you inside of an elevator and 09:55:04
13 has a threatening demeanor, that's yelling at you, 09:55:08
14 threatening to do you physical harm, I believed he was 09:55:17
15 going to hit me, and I just know -- 09:55:21
16 MS. STEVENS: Mr. Diaz, can you speak up? 09:55:26
17 Your voice -- 09:55:28
18 THE WITNESS: Excuse me. 09:55:30
19 MS. STEVENS: Is very low. Thank you. 09:55:32
20 THE WITNESS: I was saying, when being 09:55:33
21 confronted by a person that's been bullying you for a 09:55:35
22 while, being accosted in an elevator, not knowing what 09:55:37
23 his intentions were. 09:55:46
24 (Mr. Lafayette exits the proceedings.) 09:55:49
25 \\\ 09:55:53

OWEN ORAPIO DIAZ, JR. VOLUME III
DIAZ vs TESLA, INC.June 21, 2019
438

1 STATE OF CALIFORNIA)
2 CITY AND COUNTY OF SAN FRANCISCO) SS:

3
4 I, Michael Cundy, CSR NO. 12271, a
5 Certified Shorthand Reporter of the State of
6 California, do hereby certify:

7 That the foregoing proceedings were
8 taken before me at the time and place herein set
9 forth; that any witnesses in the foregoing
10 proceedings, prior to testifying, were placed under
11 oath; that a verbatim record of the proceedings was
12 made by me using machine shorthand which was
13 thereafter transcribed under my direction; further,
14 that the foregoing is an accurate transcription
15 thereof.

16 I further certify that I am neither
17 financially interested in the action nor a relative or
18 employee of any attorney or any of the parties.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21
22 Dated: July 3, 2019



24 Michael Cundy, CSR NO. 12271
25

Exhibit

5

Demetric Di-Az-Confidential

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**REPORTER CERTIFIED
TRANSCRIPT**

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON, an individual,

CONFIDENTIAL

Plaintiffs,

vs.

Case No. 3:17-cv-06748-WHO

TESLA, INC. DBA TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS, INC.;
WEST VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.
and DOES 1-10, inclusive,

Defendants.
_____ /

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

DEMETRIC DI-AZ

SAN FRANCISCO, CALIFORNIA

TUESDAY, MAY 15, 2018

Reported By:
Candy Newland
CSR No. 14256
File No. 18-25468



~~Demetric Di-Az-Confidential~~

1 Deposition of DEMETRIC DI-AZ, taken on behalf of
2 Defendants at 351 California Street, Suite 200, San
3 Francisco, California, commencing at 10:11 a.m. on
4 Tuesday, May 15, 2018, before Candy Newland, Certified
5 Shorthand Reporter No. 14256.

6

7

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20

21 ALSO PRESENT:

22 Teresa Kossayan, West Valley Staffing Group

23 Jaime Bodiford, Tesla

24 Frank Quirarte, Videographer

25

11:40:45 1 there I got moved to the night shift.

11:40:48 2 Q. Were you ever paid by Tesla?

11:40:50 3 A. No.

11:41:00 4 (EXHIBIT 18 was marked for identification.)

11:41:11 5 BY MS. ANTONUCCI:

11:41:18 6 Q. Exhibit 18 is a copy of a job description for a

11:41:22 7 production associate on the assembly line and it's

11:41:25 8 Bates-stamped at the bottom WV64 to 65.

11:41:34 9 Do you see that?

11:41:36 10 A. Yes.

11:41:37 11 Q. Okay. Did you receive a copy of this job

11:41:40 12 description when you were assigned to Tesla?

11:41:45 13 A. I don't recall.

11:41:47 14 Q. Do you remember receiving a copy of a job

11:41:50 15 description when you were signed to Tesla?

11:41:52 16 A. I don't recall ever receiving one.

11:41:52 17 (Reporter clarification.)

11:41:52 18 THE WITNESS: I don't recall ever seeing one,

11:42:40 19 yeah.

11:42:40 20 (EXHIBIT 19 was marked for identification.)

11:42:43 21 BY MS. ANTONUCCI:

11:42:48 22 Q. Exhibit 19 is an e-mail from Ray Soto. Did you

11:42:53 23 receive this e-mail from Ray Soto on or around

11:42:57 24 August 21st, 2015, when you started at Tesla?

11:43:05 25 A. Yes.

Demetric Di-Az-Confidential

12:45:38 1 August 24th, 2015; is that right?

12:45:40 2 A. Yes.

12:46:01 3 Q. Did Louis give you any work instructions when
12:46:05 4 you met with him?

12:46:06 5 A. Not that I can recall.

12:46:15 6 Q. Did Louis say anything to you when you first
12:46:18 7 arrived at the Tesla facility?

12:46:20 8 A. He greeted us, "Good morning," and then took us
12:46:24 9 over to the training facility.

12:46:27 10 Q. Did you ever see Louis again during your time on
12:46:31 11 assignment at Tesla?

12:46:33 12 A. No.

12:46:42 13 Q. Did you ever e-mail or otherwise communicate
12:46:44 14 with Louis during the time that you worked at the Tesla
12:46:49 15 facility other than this one occasion?

12:46:52 16 A. No.

12:46:58 17 Q. How were you introduced to the people you would
12:47:01 18 be working with at Tesla?

12:47:02 19 MR. ORGAN: Objection. Vague and ambiguous.

12:47:06 20 THE WITNESS: Can you restate the question?

12:47:06 21 MS. ANTONUCCI:

12:47:08 22 Q. Yeah. At some point you started working in the
12:47:11 23 body in white department; right?

12:47:13 24 A. I worked in the battery production part.

12:47:17 25 Q. Okay. And you worked with the battery team?

12:47:19 1 A. Yes.

12:47:20 2 Q. And who introduced you to the people that you
12:47:23 3 would be working with in the battery team?

12:47:26 4 A. It was more of -- I was put in a group. They
12:47:30 5 said, "This is where you're going." Somebody walked us
12:47:34 6 over there, and then from there we just introduced
12:47:37 7 ourselves.

12:47:37 8 Q. And was the battery team part of body in white?

12:47:40 9 A. I really can't recall.

12:47:42 10 Q. So do you remember who walked you over there?

12:47:46 11 A. No.

12:47:46 12 Q. Do you remember the first person you met once
12:47:49 13 you got there?

12:47:51 14 A. I met the day team supervisor. I don't remember
12:47:54 15 his name.

12:48:11 16 Q. Do you know if his name was Robert Dominguez?

12:48:14 17 A. No, I don't remember.

12:48:30 18 Q. Were you -- did you meet your shift lead on the
12:48:34 19 first day that you started work?

12:48:36 20 A. No. The first day I started we did the training
12:48:40 21 for about a week. So after that I ended up meeting him
12:48:44 22 probably, like, after that.

12:48:45 23 Q. So after you finished your training, did you
12:48:49 24 meet a shift lead?

12:48:49 25 A. I met the supervisor. Then the next day I met

Demetric Di-Az-Confidential

02:02:52 1 Q. Anything else? Any other types of caps you
02:02:56 2 wore?

02:02:57 3 A. A few Goorin Brother hats.

02:02:57 4 (Reporter clarification.)

02:02:57 5 THE WITNESS: Goorin Brother.

02:03:18 6 BY MS. ANTONUCCI:

02:03:18 7 Q. Did you argue with Javier Caballero when he told
02:03:22 8 you to put on the hard hat instead of the bump cap?

02:03:27 9 A. No. After I asked why, he told me I would get
02:03:30 10 fired. From there, there was nothing else said.

02:03:40 11 Q. Prior to this incident with the bump cap, did
02:03:43 12 you get along with Javier?

02:03:45 13 A. I --

02:03:46 14 MR. ORGAN: Objection. Vague and ambiguous.
02:03:50 15 You can answer.

02:03:50 16 THE WITNESS: No.

02:03:52 17 BY MS. ANTONUCCI:

02:03:52 18 Q. Why didn't you get along with Javier prior to
02:03:55 19 this incident?

02:03:55 20 A. Javier was harassing me and calling me a nigger
02:04:00 21 every day; so, no, I didn't get along with him.

02:04:05 22 Q. And that was before the incident with the bump
02:04:08 23 cap?

02:04:09 24 A. Yes.

02:04:19 25 Q. You said that he called you a nigger every day?

02:04:22	1	A. Yes.
02:04:32	2	Q. Who did you work with when you were working the
02:04:37	3	night shift?
02:04:37	4	A. It was a few different people. I don't remember
02:04:40	5	all their names. One of the people that I worked
02:04:42	6	heavily with was T.J.
02:04:45	7	Q. Do you know what T.J.'s last name is?
02:04:49	8	A. No, I don't.
02:04:50	9	Q. Any other names you can remember of the folks
02:04:52	10	that worked the night shift?
02:04:54	11	A. No. That's who I worked heavily with.
02:05:11	12	Q. Did anybody else at Tesla call you the N-word?
02:05:15	13	A. No. It was just him.
02:05:19	14	Q. And you understand what I mean when I say
02:05:23	15	N-word; right?
02:05:24	16	A. Yes.
02:05:29	17	Q. Did your shift lead ever call you the N-word?
02:05:33	18	A. No.
02:05:53	19	Q. Okay. Did anybody talk to you about not wearing
02:06:01	20	your safety glasses, pulling up your pants, or wearing
02:06:06	21	your hard hat from West Valley?
02:06:09	22	MR. ORGAN: Objection. Compound.
02:06:11	23	THE WITNESS: Can you state the question again?
02:06:13	24	BY MS. ANTONUCCI:
02:06:13	25	Q. Did anybody from West Valley ever talk to you

~~Demetric Di-Az-Confidential~~

03:17:01	1	Q.	Any people on your team not African-American?
03:17:04	2	A.	Yes.
03:17:05	3	Q.	Who?
03:17:07	4	A.	I think it was probably about, like, three other
03:17:10	5		guys that weren't African-American.
03:17:14	6	Q.	Any other people on your team African-American?
03:17:17	7	A.	Me, T.J., and one other guy. I don't remember
03:17:20	8		his name.
03:17:42	9	Q.	Is this the only time that this statement was
03:17:45	10		made?
03:17:46	11	A.	That statement, yes.
03:17:56	12	Q.	How did you feel when you heard it?
03:17:58	13	A.	It made me feel like less of a man, like --
03:18:04	14		like, why would you do something like that. Like, why
03:18:09	15		would you feel like it's okay to call us niggers and
03:18:14	16		tell us that you can't stand us? Like, what makes you
03:18:17	17		think that that's right?
03:18:18	18	Q.	Did you tell him that's how it made you feel?
03:18:22	19	A.	Yes, I did. And when I told him how it made me
03:18:26	20		feel, he pretty much told me the same thing he told me
03:18:29	21		before: "You're a temp, and if you don't like it, you
03:18:33	22		can get fired."
<u>03:18:41</u>	<u>23</u>	<u>Q.</u>	<u>Did you complain to anybody else about his</u>
<u>03:18:48</u>	<u>24</u>		<u>statement?</u>
<u>03:18:48</u>	<u>25</u>	<u>A.</u>	<u>Yes.</u>

Demetric Di-Az-Confidential

<u>03:18:49</u>	<u>1</u>	<u>Q. Who?</u>
<u>03:18:49</u>	<u>2</u>	<u>A. From there I went to his immediate -- to</u>
<u>03:18:54</u>	<u>3</u>	<u>Javier's supervisor. They did nothing about it. And</u>
<u>03:18:58</u>	<u>4</u>	<u>then from there, I went to HR, and they did nothing</u>
<u>03:19:01</u>	<u>5</u>	<u>about it.</u>
<u>03:19:05</u>	<u>6</u>	<u>Q. Who in HR did you complain to?</u>
<u>03:19:07</u>	<u>7</u>	<u>A. I don't remember the lady's name.</u>
<u>03:19:22</u>	<u>8</u>	<u>Q. And who was Javier's supervisor?</u>
<u>03:19:25</u>	<u>9</u>	<u>A. It was another male. I don't remember his name</u>
<u>03:19:28</u>	<u>10</u>	<u>either.</u>
<u>03:19:28</u>	<u>11</u>	<u>Q. Was it Juan Martinez?</u>
<u>03:19:30</u>	<u>12</u>	<u>A. I'm not too sure.</u>
<u>03:19:35</u>	<u>13</u>	<u>Q. Did you ever put anything in writing?</u>
<u>03:19:38</u>	<u>14</u>	<u>A. No.</u>
<u>03:19:42</u>	<u>15</u>	<u>Q. You never complained in writing?</u>
<u>03:19:44</u>	<u>16</u>	<u>A. No. I just went and verbally complained. It</u>
<u>03:19:47</u>	<u>17</u>	<u>never went anywhere.</u>
<u>03:19:54</u>	<u>18</u>	<u>Q. You never sent a text?</u>
<u>03:19:56</u>	<u>19</u>	<u>A. No.</u>
<u>03:19:56</u>	<u>20</u>	<u>Q. You never wrote an e-mail?</u>
<u>03:19:58</u>	<u>21</u>	<u>A. No.</u>
<u>03:19:58</u>	<u>22</u>	<u>Q. You didn't think that something like this was</u>
<u>03:20:01</u>	<u>23</u>	<u>important enough to put it in writing?</u>
<u>03:20:03</u>	<u>24</u>	<u>MR. ORGAN: Objection. Argumentative.</u>
<u>03:20:04</u>	<u>25</u>	<u>MS. ANTONUCCI: You can answer.</u>

Demetric Di-Az-Confidential

03:20:05	1	THE WITNESS: I felt that, if you explain to
03:20:08	2	somebody the situation, no matter if I write it or not,
03:20:12	3	you should still handle your business.
03:20:12	4	BY MS. ANTONUCCI:
03:20:14	5	<u>Q. Do you have any idea if this human resources</u>
03:20:17	6	<u>person you complained to, was it a Tesla or West Valley</u>
03:20:21	7	<u>employee?</u>
03:20:21	8	<u>A. I went to the Tesla human resources.</u>
03:20:24	9	<u>Q. Was her name Erin Marconi?</u>
03:20:26	10	<u>A. I don't remember what her name was.</u>
03:20:28	11	<u>Q. What did she look like?</u>
03:20:29	12	<u>A. She was a white lady, blond hair, but I don't</u>
03:20:32	13	<u>remember her name.</u>
03:20:34	14	<u>Q. Where did she sit?</u>
03:20:36	15	<u>A. The office is, like, right up the stairs. It's</u>
03:20:40	16	<u>the same place that we would go to get our uniforms, if</u>
03:20:44	17	<u>I'm not mistaken.</u>
03:20:48	18	<u>Q. Did you only talk to her once?</u>
03:20:50	19	<u>A. Yes. It didn't go anywhere after that. That</u>
03:20:53	20	<u>was it. She said she would look into it, and that was</u>
03:20:56	21	<u>it.</u>
03:20:57	22	<u>Q. Did you follow back up with her to see if</u>
03:21:00	23	<u>anything had happened?</u>
03:21:01	24	<u>A. No.</u>
03:21:02	25	<u>Q. Do you know whether it was investigated?</u>

~~Demetric Di-Az-Confidential~~

03:21:04	1	A. <u>No. I feel like it wasn't because the behavior</u>
03:21:12	2	<u>never stopped.</u>
03:21:22	3	Q. Do you know when this statement was made by
03:21:25	4	Javier?
03:21:26	5	A. I don't have an exact date.
03:21:28	6	Q. Did you ever keep a calendar?
03:21:31	7	A. No.
03:21:31	8	Q. Did you ever keep any notes?
03:21:33	9	A. No.
03:21:33	10	Q. Journal?
03:21:34	11	A. No.
03:21:35	12	Q. Have you ever put it in an e-mail?
03:21:37	13	A. No.
03:21:54	14	Q. What did you tell Javier about how this made you
03:21:57	15	feel?
03:21:58	16	A. I pretty much told him, like, calling us niggers
03:22:01	17	is wrong. That's wrong. Regardless if you think it's
03:22:04	18	okay or not, it's wrong. And pretty much from what he
03:22:07	19	told me is, if you don't like it, you can get fired.
03:22:28	20	Q. And you only talked with Juan Martinez once?
03:22:32	21	A. I'm not sure if I talked to Juan Martinez. I
03:22:36	22	don't remember the guy's name.
03:22:38	23	Q. Did you only talk to Javier's supervisor once?
03:22:41	24	A. Yes.
03:22:42	25	Q. And what did you tell him?

1 I, CANDY NEWLAND, CSR No. 14256, certify that the
2 foregoing proceedings were taken before me at the time
3 and place herein set forth, at which time the witness
4 was duly sworn, and that the transcript is a true record
5 of the testimony so given.

6
7 Witness review, correction, and signature was

8 (X) by Code. (X) requested.

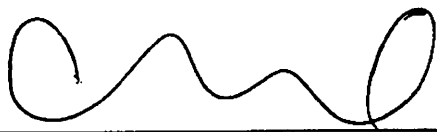
9 () waived. () not requested.

10 () not handled by the deposition officer due to party
11 stipulation.

12
13 The dismantling, unsealing, or unbinding of the
14 original transcript will render the reporter's
15 certificate null and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties nor of any of
19 the parties.

20 Dated this 29th day of May, 2018.

21
22
23
24 

25 CANDY NEWLAND, CSR 14256

Exhibit

6

Message

From: Veronica Martinez [veronica.martinez@chartwellstaff.com]
Sent: 1/22/2016 11:19:24 PM
To: Wayne Jackson [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Wayne Jackson899]
CC: Garrett, Terri [tgarrett@nextsource.com]; Jackson, Wayne [wjackson@nextsource.com]; Jackelin Delgado [jackelin.delgado@chartwellstaff.com]; Jessy Meneses [jessy.meneses@chartwellstaff.com]
Subject: RE: Racist effigy & drawing

Wayne,

I was able to speak with Ramon and he is on his way to my office so we can start an investigation. I have also notified my HR director of this situation as well. I will keep you updated.

Thanks
 Veronica

From: Wayne Jackson [mailto:wjackson@teslamotors.com]
Sent: Friday, January 22, 2016 11:26 AM
To: Veronica Martinez <veronica.martinez@chartwellstaff.com>
Cc: Garrett, Terri <tgarrett@nextsource.com>; Jackson, Wayne <wjackson@nextsource.com>
Subject: FW: Racist effigy & drawing
Importance: High

Hi Veronica this serious came up today. I believe Chartwell is his EOR. What is your policy with regards to discrimination. Please review the email below and get back with what your policy is so that I can address.

Wayne Jackson
 Program Manager
 1040 Avenue of the Americas, 24th Floor
 New York, NY 10018
 Mobile: (917) 797-9984
wjackson@teslamotors.com
wjackson@nextsource.com



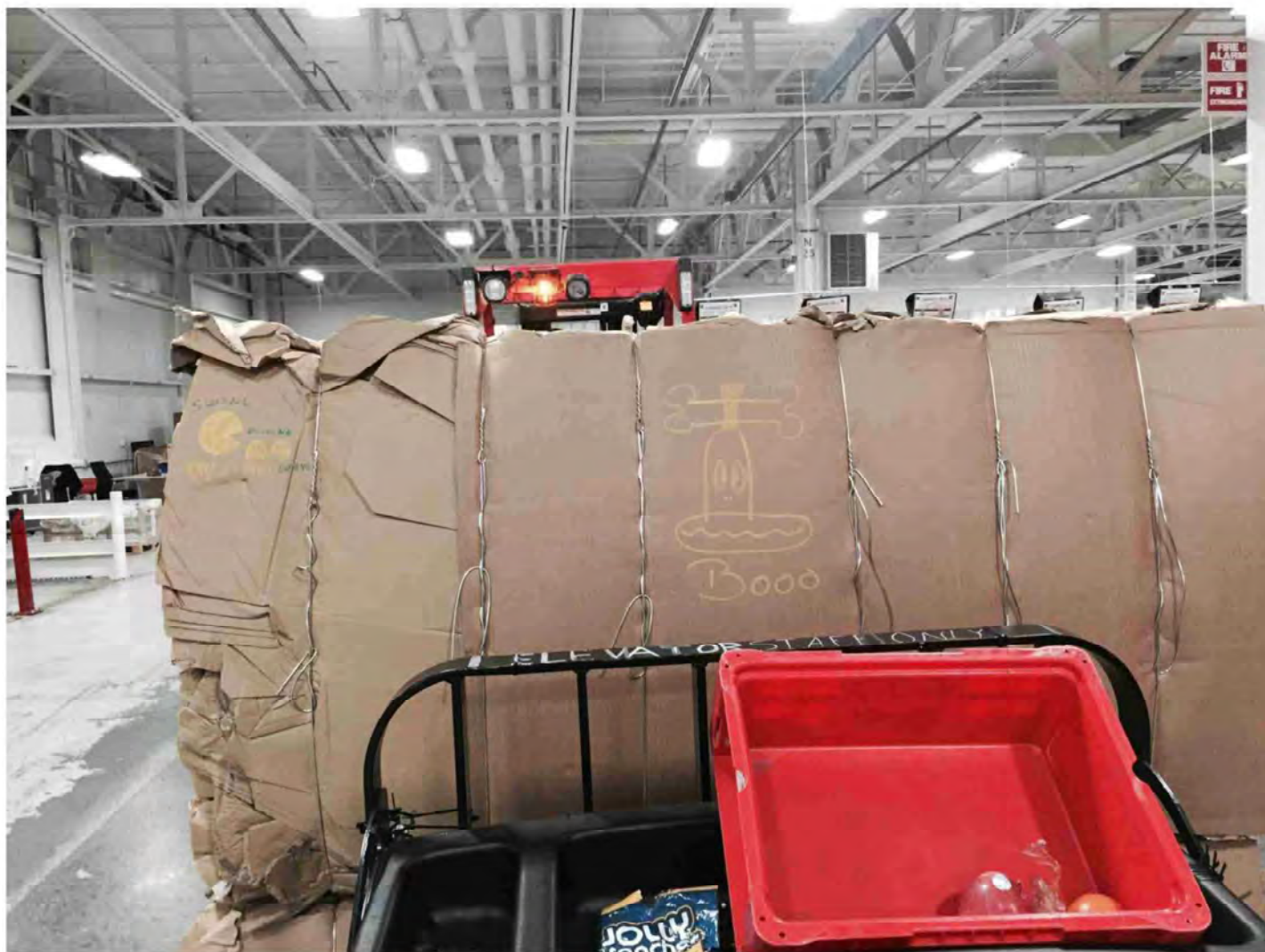
Workforce Optimization, Business Enlightenment

From: Owen Diaz [mailto:odiazjr68@gmail.com]
Sent: Friday, January 22, 2016 8:46 AM
To: Wayne Jackson <wjackson@teslamotors.com>
Subject: Fwd: Racist effigy & drawing

Begin forwarded message:

From: Owen Diaz <odiazjr68@gmail.com>
Date: January 22, 2016 at 8:42:10 AM PST
To: "Mr. Romero" <cdromero@teslamotors.com>
Subject: Racist effigy & drawing

On 1/21/16 at 9:10 pm I was working elevator one, I was removing the recycling from the 2nd floor and taking said items to be staged on the first floor for removal. As I was removing those items I came upon the first cardboard bail of the night. As I pulled the pallet rider into position to pick up the bail I noticed a drawing on the bail. It was a picture of a cartoon depicting a black face person with a bone in his hair with the caption under it saying booo. Upon seeing this my stomach dropped and I wondered who could've done this in today's age. At that time I didn't know what to do, so I call Michael Wheeler and sent a text of the picture letting him know that someone on his team had sent this bail over to the elevator with this picture. Sense Michael was the lead for the recycling team at that time. I would let him take point and get to the bottom of the problem. Michael said, he would be there in a few minutes. when Michael arrived he arrived with Israel. They both took pictures and all three of us went upstairs. I had to stop and deal with the elevator crew but Michael and Israel heading over to the upstairs recycling center. They came back a few minutes later with Ramon Martinez. While the three of us were standing there discussing what happened. Ramon Martinez said, he had drew the picture and he was just playing. As a supervisors or leads we are held to a higher standard because The people we supervise look to us as examples. if a supervisor does this kind of thing in front of the employees employees what kind of example are we setting. A person should be able to come to work and not be harassed or degraded while they're trying to do their job. This is not the first time Ramon Martinez has been talk about his behavior. And because nothing has been done, it seems that his behavior is getting worse. As an employee I'm entitled to a safe and harassment free work environment. And that all I ask and hope for.





Sent from my iPhone

Exhibit

7

Message

From: Owen Diaz [sfrednose@gmail.com]
Sent: 10/20/2015 4:54:12 PM
To: Wayne Jackson [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Wayne Jackson899]
Subject: Fwd: Ramon

Sent from my iPhone

Begin forwarded message:

From: Owen Diaz <sfrednose@gmail.com>
Date: October 17, 2015 at 6:08:48 AM PDT
To: "edromero@teslamotors.com" <edromero@teslamotors.com>, "Tom @ Tesla" <tkawasaki@teslamotors.com>
Subject: Ramon

Mr. Romero today @ 4:45 am I was working elevator 1 with rothaj foster training him, when the elevator doors opened on the first floor and we saw Ramon sitting there. At the time I was explaining to Rothaj what you had told me about the outside team and inside team and what his duties consisted of. I was explaining him that Tom would no longer be his supervisor it was going to be you. For some reason Ramon jump off the tugger he was on and started yelling at me in a Threatening manner, saying you have a problem with me! why are you telling him who his supervisor is! When I did not say anything to Ramon followed me into the elevator and stood next to the forklift I was on and keep yelling at me. I thought he was going to hit me. so I asked him to please step back. because of his threatening manner and reminded Ramon we were on camera. Mr. Romero because of the way Ramon was acting I don't feel safe around him now. Can you please talk to him I don't need any problems. I just want to do my job. You can check the surveillance system to confirm. I contacted Tom for advice and he said, if you don't have excess surveillance system please contact him.

Sent from my iPhone

Exhibit

8

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

No. 3:17-cv-06748-WHO

vs.

TESLA, INC. Dba TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC.; NEXTSOURCE,
INC.; and DOES 1-50,
inclusive,

Defendants.

_____/

DEPOSITION OF ANNALISA HEISEN

May 29, 2019

Reported by:

Bridget M. Mattos, CSR No. 11410

A P P E A R A N C E S

FOR THE PLAINTIFFS:

CALIFORNIA CIVIL RIGHTS LAW GROUP

By: LAWRENCE A. ORGAN

Attorney at Law

332 San Anselmo Avenue

San Anselmo, California 94960

(415) 453-4740

larry@civilrightsca.com

ALSO PRESENT: JEAN GER, CCRLG

FOR THE DEFENDANT WEST VALLEY STAFFING GROUP:

PAHL & MCCAY

By: FENN C. HORTON, III

Attorney at Law

225 West Santa Clara, Suite 1500

San Jose, California 95113

(408) 286-5100

fhorton@pahl-mccay.com

ALSO PRESENT:

TERESA KOSSAYIAN, WEST VALLEY STAFFING GROUP

FOR THE DEFENDANT NEXTSOURCE, INC.:

FISHER & PHILLIPS

By: JUAN C. ARANEDA

Attorney at Law

One Embarcadero Center, Suite 2050

San Francisco, California 94111

(415) 490-9000

jaraneda@fisherphillips.com

ANNALISA HEISEN

May 29, 2019

1 A P P E A R A N C E S (continued)
2
3 FOR THE DEFENDANT TESLA INC. DbA TESLA MOTORS INC.:
4 SHEPPARD, MULLIN, RICHTER & HAMPTON
5 By: PATRICIA M. JENG
6 Attorney at Law
7 Four Embarcadero Center, 17th Floor
8 San Francisco, California 94111
9 (415) 434-9100
10 pjeng@sheppardmullin.com
11 FOR THE DEFENDANT CHARTWELL STAFFING SERVICES, INC.:
12 LAFAYETTE & KUMAGAI LLP
13 By: CHERYL A. STEVENS
14 Attorney at Law
15 1300 Clay Street, Suite 810
16 Oakland, California 94612
17 (415) 357-4600
18 cstevens@lkclaw.com
19
20
21
22
23
24
25

1 **number. I have done investigations.**

2 Q. Have you ever done an investigation into a
3 claim of the use of the "N" word at the Tesla factory?

4 **A. Myself?**

5 Q. Yeah.

6 **A. I believe so.**

7 Q. Which part of the factory did that relate to?

8 **A. I don't recall.**

9 Q. Have you done more than one investigation
10 into use of the "N" word at the Tesla factory?

11 **A. It's possible.**

12 Q. As to the one investigation you recall, do
13 you remember when you did that investigation into use
14 of the "N" word?

15 **A. I don't recall specifics around the case.**

16 Q. Were you working as an employee relations
17 partner at that time, at the time you did the "N" word
18 investigation?

19 **A. It would have either been as an HR partner or**
20 **employee relations partner, somewhere in that**
21 **capacity.**

22 Q. Tell me about the steps that you went through
23 in that "N" word investigation. What were the steps
24 you did?

25 **A. I don't recall the specifics around the**

ANNALISA HEISEN

May 29, 2019

1 MR ORGAN: Q. No. I'm asking you to answer
2 that question.

3 MS. JENG: She's already answered.

4 THE WITNESS: Can you repeat the question?

5 (Record read as follows:

6 "QUESTION: But my question's a little
7 different, and that is, relative to Tesla's code of
8 conduct, which is Exhibit 149 -- this is the updated
9 version of the code of conduct -- the policies
10 relative to discrimination and harassment that are on
11 page Tesla 811 of Exhibit 149, those apply to both
12 regular employees at the factory and contract
13 employees at the factory; right?")

14 MS. JENG: I'll assert the same objection.

15 THE WITNESS: My understanding is that
16 contractors who work for agencies are meant to comply
17 with legal standards. I couldn't interpret whether
18 this specifically all applies to a contractor or not.

19 MR ORGAN: Q. You don't know whether the
20 code of business conduct that Tesla has applies to
21 people working at the factory as contractors?

22 MS. JENG: Objection; asked and answered.

23 THE WITNESS: We have an expectation that
24 they're going to be -- this standard is going to be
25 upheld by both employees and contractors. That is the

1 expectation.

2 MR. ORGAN: Q. This standard applies -- the
3 standard that is in the code of business conduct and
4 ethics applies to Tesla regular employees, doesn't it?

5 MS. JENG: Objection; asked and answered.
6 And you're badgering the witness.

7 MR. ARANEDA: It's argumentative.

8 MS. JENG: And also outside the scope of the
9 notice, to the extent you're asking her to testify
10 about agencies -- like, what policies apply to
11 agencies.

12 MR. ORGAN: Counsel, that's not an objection.
13 You know it's improper.

14 MS. JENG: You're asking the same question.

15 MR. ORGAN: Don't do it. It's a different
16 question.

17 MS. JENG: It's not a different question.

18 MR. ORGAN: It actually is, because the other
19 questions all had to do with contractors. I'm asking
20 a specific question about employees now, regular
21 employees at Tesla. Do you understand that?

22 I'll rephrase the question.

23 Q. The code -- Tesla's code of business conduct
24 and ethics, which is included in Exhibit 149, that
25 applies to all Tesla employees working at the Tesla

1 Q. In terms of if a Tesla employee -- let's say
2 a supervisor or a manager gets information from a
3 contract employee about harassment or discrimination,
4 Tesla's antiharassment and discrimination policy would
5 apply, in terms of reporting an investigation;
6 correct?

7 **A. Correct. To that employee of Tesla who**
8 **received information?**

9 Q. Yes.

10 **A. Correct.**

11 Q. And so that employee of Tesla would have to
12 then take some action once they get information about
13 discrimination or harassment in the workplace;
14 correct?

15 **A. That's the expectation.**

16 Q. And that's true regardless of whether the
17 harassment or discrimination takes place in any area
18 of the Fremont factory; correct?

19 **A. What do you mean, "area"?**

20 Q. Well, there are different areas of the
21 Fremont factory, I understand; is that right?

22 **A. Physical locations.**

23 Q. Physical locations, yes.

24 **A. That's my understanding.**

25 Q. And in terms of the antiharassment and

ANNALISA HEISEN

May 29, 2019

1 discrimination policy that Tesla has, that policy
2 applies to all areas of the factory; right?

3 **A. That's my understanding.**

4 Q. There's not like an antiharassment-free zone;
5 right?

6 **A. No.**

7 Q. So if a Tesla employee gets information about
8 harassing conduct based on race in the factory, that's
9 occurring in the factory, regardless of how they get
10 that information, they then have a reporting duty, in
11 terms of either providing that information to a
12 higher-level manager or sending it to HR; is that
13 true?

14 **A. There's an expectation of that, as it's**
15 **articulated in the policy.**

16 MR ORGAN: This is 151.

17 (Whereupon Deposition Exhibit 151
18 was marked for identification.)

19 MR ORGAN: Exhibit 151, for the record, is a
20 six-page document Bates-stamped Tesla 819 to 824.
21 It's entitled "Policy Against Discrimination and
22 Harassment in the Workplace, U.S. Locations."

23 Q. Do you recognize Exhibit 151?

24 **A. I do.**

25 Q. And what is Exhibit 151?

1 anything in writing that you have seen that indicates
2 what contractors are supposed to do relative to
3 enforcing Tesla's antiharassment policies?

4 **A. Not that I've seen.**

5 Q. And other than the policies that we've talked
6 about and the investigation tool kit, which we don't
7 have, other than those policies and procedures, are
8 there any other policies or procedures for ensuring
9 that workers who are working at your Fremont factory
10 are not subjected to harassment?

11 **A. Not that I'm aware of.**

12 Q. In terms of Tesla's antiharassment complaint
13 procedures, we saw some of those in the code of
14 conduct and then also in the antiharassment policy.

15 Other than those complaint procedures, are
16 there any other complaint procedures that Tesla has
17 that we haven't gone over?

18 **A. No, I think we covered everything.**

19 Q. It's fair to say that if someone wants to
20 make a complaint to Tesla about the way they're being
21 treated, some kind of harassment, they can do that
22 either in writing or verbally; is that true?

23 **A. That's correct.**

24 Q. And if a Tesla employee wants to complain
25 about harassment in the workplace, they can do that by

1 complaining to either a lead, a supervisor, a manager,
2 or HR; is that true?

3 **A. Correct. Or through the integrity hotline.**

4 Q. Or to the integrity hotline.

5 And similarly, if a contract employee who's
6 working at the Tesla factory wanted to complain about
7 harassing conduct, they could also complain to their
8 lead supervisor manager or HR; is that true?

9 **A. The staffing agencies' HR and other people**
10 **employed through there, they would be able to speak**
11 **with them or Tesla staff, or the agency.**

12 Q. Actually, a contract employee has more
13 avenues to complain, because they can complain either
14 to their own staffing agency or to Tesla supervisors,
15 managers, or HR people; true?

16 **A. That's correct.**

17 Q. Now, in terms of steps that Tesla has taken
18 to prevent the use of the "N" word at the Fremont
19 factory, are you aware of any steps that Tesla has
20 taken specifically to address that term?

21 MS. JENG: Objection; lacks foundation.

22 THE WITNESS: Not solely for the purpose of
23 addressing that term.

24 MR ORGAN: Q. You're aware that there have
25 been allegations of the use of the "N" word in

ANNALISA HEISEN

May 29, 2019

1 State of California)

2 County of Marin)

3

4 I, Bridget M. Mattos, hereby certify
5 that the witness in the foregoing deposition was by me
6 duly sworn to testify to the truth, the whole truth
7 and nothing but the truth in the within entitled
8 cause; that said deposition was taken at the time and
9 place herein named; that the deposition is a true
10 record of the witness's testimony as reported to the
11 best of my ability by me, a duly certified shorthand
12 reporter and disinterested person, and was thereafter
13 transcribed under my direction into typewriting by
14 computer; that the witness was given an opportunity to
15 read, correct and sign the deposition.

16 I further certify that I am not
17 interested in the outcome of said action nor connected
18 with or related to any of the parties in said action
19 nor to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunder
21 subscribed my hand on May 29, 2019.

22

23

BRIDGET M. MATTOS, CSR NO. 11410

24

25

Exhibit

9

ARBITRATION

BEFORE: LYNN DURYEE, ARBITRATOR

---o0o---

DEWITT LAMBERT,

CLAIMANT,

vs.

No. 1100088312

TESLA, INC. DBA TESLA MOTORS,
INC.; AND DOES 1-10,
INCLUSIVE,

RESPONDENTS.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Volume III

(Pages 597 - 859)

Taken Before KATHLEEN WILKINS,

RPR-RMR-CRR-CCRR-CLR-CRC, CSR #10068

March 15, 2019

Aiken Welch Court Reporters
One Kaiser Plaza, Suite 250
Oakland, California 94612
(510) 451-1580 / (877) 451-1580
Fax: (510) 451-3797
www.aikenwelch.com

1 ARBITRATOR DURYEE: If called, he would so
2 testify?

3 Okay. Then we accept that.

4 MR. ORGAN: One other witness, your Honor,
5 is Nathan Fraim. And he has to do with authenticating
6 the photo in the bathroom where the N-word was in that
7 picture, and it was the third part of -- what was that
8 exhibit I did today with the pictures? I think it's
9 107-3, your Honor.

10 He would just come in and testify that he
11 took that picture.

12 ARBITRATOR DURYEE: When?

13 MS. AVLONI: Let me give you that info. I
14 have it. One second.

15 MS. OCHS: He worked there --

16 MS. AVLONI: It was in 2017 the photo was
17 taken.

18 MS. OCHS: He worked there only from January
19 until August of 2017, as a contract worker.

20 ARBITRATOR DURYEE: Okay. Can we agree that
21 if called to testify, he would say that he took this
22 photograph sometime during that period when he was a
23 contract worker?

24 MS. OCHS: I don't have an objection to
25 that. But we would also want to include that he did

1 not work on Chassis 2 in the relevant time periods and
2 that he did not know Mr. Lambert.

3 ARBITRATOR DURYEE: Okay. Do you accept
4 that --

5 MR. ORGAN: And we agree with that, your
6 Honor.

7 MS. OCHS: He has no personal knowledge of
8 the case.

9 MR. ORGAN: Okay.

10 ARBITRATOR DURYEE: I accept that. I don't
11 think there's anything else we need for the record.

12 MR. ORGAN: I think that's it, your Honor.

13 ARBITRATOR DURYEE: Thank you.

14 (Whereupon, the proceedings adjourned at
15 4:03 p.m.)
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, KATHLEEN A. WILKINS,
RPR-RMR-CRR-CCRR-CLR-CRC, a Shorthand Reporter, State
of California, do hereby certify:

That said proceedings were taken before me
at said time and place, and was taken down in
shorthand by me, a Certified Shorthand Reporter of the
State of California, and was thereafter transcribed
into typewriting, and that the foregoing transcript
constitutes a full, true and correct report of said
proceedings that took place'

IN WITNESS WHEREOF, I have hereunder
subscribed my hand this 2nd day of April, 2019.

Kathleen A. Wilkins

KATHLEEN WILKINS, CSR 10068

RPR-RMR-CRR-CCRR-CLR-CRC

State of California

Exhibit

10

Lawrence A. Organ, Esq. (SBN 175503)
 Navruz Avloni, Esq. (SBN 279556)
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Attorneys for Plaintiff,
 DEMETRIC DI-AZ and OWEN DIAZ

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and
 LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. dba TESLA MOTORS, INC.;
 CITISTAFF SOLUTIONS, INC.; WEST
 VALLEY STAFFING GROUP;
 CHARTWELL STAFFING SERVICES, INC.;
 and DOES 1-50, inclusive,

Defendants.

) Case No. 3:17-cv-06748-WHO

)

) **Plaintiffs Demetric Di-az and Owen Diaz's**
) **Supplemental Initial Disclosures Pursuant**
) **to General Order No. 71**

)

)

)

)

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)

)

Pursuant to the United States District Court, Northern District of California, General
 Order No. 71, Plaintiffs Demetric Di-az and Owen Diaz hereby make the following supplemental
 disclosures to Defendants Tesla, Inc. dba Tesla Motors, Inc.; West Valley Staffing Group;
 NextSource, Inc.; and Citistaff Solutions, Inc. These supplemental disclosures are based on
 information presently known and reasonably available to Plaintiffs and which Plaintiffs

1 reasonably believe they may use in support of their claims. Continuing investigation and
 2 discovery may cause Plaintiffs to supplement or amend these disclosures, by taking steps
 3 including (though not limited to) identifying other potential witnesses, identifying other
 4 potentially relevant documents, and by disclosing other pertinent information.

5 By providing these supplemental disclosures, Plaintiffs do not represent that they are
 6 identifying every document, tangible thing, or witness potentially relevant to this action. In
 7 addition, these disclosures are made without waiver of Plaintiffs' right to object to any discovery
 8 request or proceeding involving or relating to the subject matter of these disclosures on any
 9 grounds, including (though not limited to) privilege, relevancy, hearsay, undue burden,
 10 confidentiality, privacy, or any other appropriate grounds for objection.

9 2. Documents

10 Copies of all unprivileged documents in the possession, custody or control of Plaintiffs
 11 that Plaintiffs may use to support their claims are being provided to defense counsel
 12 concurrently. Documents pertaining to Plaintiff Owen Diaz have been Bates stamped
 13 ODIAZ000001-000009. Documents pertaining to Plaintiff Demetric Di-az have been Bates
 14 stamped DDIAZ000001-000010. Mr. Di-az's documents have been redacted to exclude attorney-
 15 client communications.

16 Plaintiffs will supplement their production within the next 10 days to include additional
 17 information required by General Order No. 71.

16 Supplemental Disclosure

17 Plaintiffs subsequently produced additional required documents, Bates-stamped
 18 DDIAZ000011-DDIAZ000029 and ODIAZ000011-ODIAZ00391.

19 3(a). Witnesses

20 The following individuals are likely to have discoverable information that Plaintiffs may
 21

use to support their claims:

Name	Contact Information	Substance of Information
Di-az, Demetric	Mr. Diaz can be contacted through his counsel.	Mr. Di-az has information regarding Defendants' discriminatory and retaliatory conduct towards him, as well as information regarding his damages.
Diaz, Owen	Mr. Diaz can be contacted through his counsel.	Mr. Diaz has information regarding Defendants' discriminatory and retaliatory conduct towards him, as well as information regarding his damages.
Patterson, Lamar	Mr. Patterson can be contacted through his counsel.	Mr. Patterson has information regarding Defendants' discriminatory and retaliatory conduct towards Plaintiffs.
Foster, Rothai	Contact information unknown.	Mr. Foster has information regarding Defendants' discriminatory and harassing behavior towards Owen Diaz.
Gardner, Jay	Contact information unknown.	Mr. Gardner participated in the harassment and discrimination of Owen Diaz. Additionally, as a supervisor, Mr. Gardner has knowledge of Defendants' policies and practices pertaining to racial harassment and discrimination.
Holmes, Demetrica	Ms. Holmes can be contacted through Plaintiff's counsel.	Ms. Holmes has information regarding Plaintiffs' emotional distress damages.

Jackson, W. (First name unknown)	Contact information unknown.	Mr. Jackson has knowledge regarding Plaintiffs' complaints of discrimination and harassment to Defendants. Additionally, as a supervisor, Mr. Jackson has knowledge pertaining to Defendants' policies and procedures as they relate to racial harassment and discrimination.
Jones, La'Drea	Ms. Jones can be contacted through Plaintiff's counsel	Ms. Jones has information regarding Plaintiffs' emotional distress damages.
Kawasaki, Tom	Contact information unknown.	Mr. Kawasaki has knowledge of Defendants' harassment of Plaintiffs. Additionally, as a supervisor, Mr. Kawasaki has knowledge pertaining to Defendants' policies concerning racial harassment and discrimination.
Oliver (Last name unknown)	Contact information unknown.	Oliver has information pertaining to Defendants' racially discriminatory and harassing treatment of Owen Diaz.
Paul (Last name unknown)	Contact information unknown.	Paul has information pertaining to Defendants' racially discriminatory and harassing treatment of Owen Diaz.
Musk, Elon	Contact information unknown.	Mr. Musk has information pertaining to Defendants' policies and procedures regarding racial harassment and discrimination.

Ramon (Last name unknown)	Contact information unknown.	Ramon participated in the harassment and discrimination against Owen Diaz. Furthermore, as a supervisor, Ramon has knowledge of Defendants' policies and procedures pertaining to racial harassment and discrimination.
Robert (Last name unknown)	Contact information unknown.	Robert participated in the harassment and discrimination against Owen Diaz.
Romero, Ed	Contact information unknown.	Mr. Romero has information pertaining to Owen Diaz's complaints of discrimination and harassment to Defendants. Additionally, as a supervisor, Mr. Romero has knowledge of Defendants' practices and policies pertaining to racial harassment and discrimination.
TJ (Last name unknown)	Contact information unknown.	TJ has information pertaining to Defendants' discriminatory and harassing conduct towards Demetric Di-az.
Wheeler, Michael	Contact information unknown.	Mr. Wheeler has knowledge of Defendants' harassing and discriminatory conduct towards Owen Diaz. Additionally, as a supervisory employee of Defendants, Mr. Wheeler has knowledge of Defendants' policies concerning racial harassment and discrimination.

Supplemental Response:

Name	Contact Information	Substance of Information
Wheeler, Michael	Phone: (510)-938-4393	<p>Mr. Wheeler has knowledge of Defendants' harassing and discriminatory conduct towards Owen Diaz. Additionally, as a supervisory employee of Defendants, Mr. Wheeler has knowledge of Defendants' policies concerning racial harassment and discrimination.</p> <p><u>Supplemental Disclosure:</u> Mr. Wheeler is also likely to have discoverable information regarding racial harassment, racial discrimination, and the hostile working environment at Defendant Tesla's Fremont Factory.</p>

Kawasaki, Tamotsu	Phone: (650)-454-4543	<p>Mr. Kawasaki has knowledge of Defendants' harassment of Plaintiffs. Additionally, as a supervisor, Mr. Kawasaki has knowledge pertaining to Defendants' policies concerning racial harassment and discrimination.</p> <p><u>Supplemental Disclosure:</u></p> <p>Mr. Kawasaki is likely to have knowledge of Plaintiff Owen Diaz's complaints of racial harassment.</p>
Nigel Jones	Mr. Jones may be contacted through Plaintiffs' counsel.	Mr. Jones has knowledge of the racially harassing and discriminatory environment in Tesla's Fremont factory, including racist graffiti displayed in the restrooms.
Melvin Berry	Contact information unknown.	Mr. Berry has knowledge of the racially harassing and discriminatory environment in Tesla's Fremont factory, Tesla's response to complaints about the use of racial slurs, and Tesla's failure to prevent a harassing and discriminatory work environment.
Nathan Fraim	Mr. Fraim may be contacted through Plaintiffs' counsel.	Mr. Fraim has knowledge of the racially harassing and discriminatory work environment and racist graffiti in Tesla's Fremont factory.

Dewitt Lambert	Mr. Lambert may be contacted through Plaintiffs' counsel.	Mr. Lambert has knowledge of the racially harassing, discriminatory, and retaliatory work environment, as well as the racist graffiti displayed in Tesla's Fremont factory.
Tori Johnson	Mr. Johnson may be contacted through Plaintiffs' counsel.	Mr. Johnson has knowledge of the racially discriminatory and harassing work environment employees of Defendant Citistaff experienced while working in Tesla's Fremont factory, including the use of racial slurs and the display of racist graffiti.
Titus McCaleb	Mr. McCaleb may be contacted through Plaintiffs' counsel	Mr. McCaleb has knowledge of the racially harassing, discriminatory, and retaliatory treatment of Defendant West Valley's employees at Tesla's Fremont factory.
Jakel Williams	Ms. Williams may be contacted through Plaintiffs' counsel.	Ms. Williams has knowledge of the racially harassing and discriminatory working environment in Tesla's Fremont factory, as well as NextSource's handling of complaints of racial harassment and discrimination.
Alfonso Franco	Unknown	Mr. Franco has knowledge of the racially harassing and discriminatory working environment in Tesla's Fremont factory, as well as Tesla's failure to investigate and prevent harassment.

3(b). Damages

Plaintiffs seek the following categories of damages:

- General damages, including past and future mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation and emotional distress.
- Special damages, including past and future lost wages.
- Injunctive relief to require Defendants to better train its staff on race harassment, discrimination and retaliation, and develop effective policies and procedures to ensure that when harassment is reported, the company takes effective remedial measures;
- Civil penalties pursuant to Section 52(a), 52(b)(2), and 52.1(a) of the California Civil Code; and Section 1102.5(f) of the California Labor Code;
- Attorneys' fees and costs pursuant to sections 52(a), 52(b)(3), and 52.1(h) of the California Civil Code; section 12965(b) of the California Government Code, and any other applicable statute;
- Interest as provided by law; and
- Costs of suit.

3(c). Disability and Social Security Benefits

Plaintiffs have not applied for disability or social security benefits after the adverse action.

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1 Dated: March 11, 2019

CALIFORNIA CIVIL RIGHTS LAW GROUP

2
3 By



LAWRENCE A. ORGAN

4 NAVRUZ AVLONI

5 Attorneys for Plaintiffs

6 DEMETRIC DI-AZ and OWEN DIAZ

Exhibit

11

Lawrence A. Organ (SBN 175503)
Navruz Avloni (SBN 279556)
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Attorneys for Plaintiffs
DEMETRIC DIAZ, OWEN DIAZ,
and LAMAR PATTERSON

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DIAZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. dba TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.;
and DOES 1-10 inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE***Owen Diaz, Demetric Diaz, and Lamar Patterson v. Tesla, Inc., et al.*****United States District Court, Northern Dist. California, Case No. 3:17-cv-06748-WHO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Marin, State of California. My business address is 332 San Anselmo Avenue, San Anselmo, CA 94960. On March 11, 2019, I served true copies of the following document(s) described as:

- **PLAINTIFFS DEMETRIC DI-AZ AND OWEN DIAZ'S SUPPLEMENTAL INITIAL DISCLOSURES PURSUANT TO GENERAL ORDER NO. 71.**

xx

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Anselmo, addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing contained in the affidavit.

on the interested parties in this action as follows:

Attorneys for Defendants Tesla, Inc.:

Tracey A. Kennedy
Sheppard Mullin
333 South Hope Street
43rd Floor
Los Angeles, California 90071

Attorneys for Defendants Citistaff Solutions:

Gary T. Lafayette
Cheryl A. Stevens
Lafayette & Kumagai
1300 Clay Street, Ste. 810
Oakland, California 94612

||
||
||

Attorneys for Defendant West Valley Staffing Group:

Fenn C. Horton, III
Helene Anastasia Simvoulakis
PAHL & MCKAY
225 West Santa Clara St, Suite 1500
San Jose, CA 95113

Attorneys for Defendant nextSource, Inc.:

Jason A. Geller
Juan C. Araneda
Aaron D. Langberg
FISHER & PHILLIPS LLP
One Embarcadero Center, Suite 2050
San Francisco, California 94111

____ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

 X (Federal) I declare that I am employed in the office of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on March 11, 2019 at San Anselmo, California.


Sabrina Grislis

Exhibit

12

Lawrence A. Organ, Esq. (SBN 175503)
Navruz Avloni, Esq. (SBN 279556)
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larry@civilrightsca.com
navruz@civilrightsca.com

Attorneys for Plaintiffs,
DEMETRIC DI-AZ and OWEN DIAZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. dba TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.;
and DOES 1-50, inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

**Plaintiffs Demetric Di-az and Owen Diaz's
Supplemental Initial Disclosures Pursuant
to General Order No. 71**

Pursuant to the United States District Court, Northern District of California, General Order No. 71, Plaintiffs Demetric Di-az and Owen Diaz hereby make the following supplemental disclosures to Defendants Tesla, Inc. dba Tesla Motors, Inc.; West Valley Staffing Group; NextSource, Inc.; and Citistaff Solutions, Inc. These supplemental disclosures are based on information presently known and reasonably available to Plaintiffs and which Plaintiffs reasonably believe they may use in support of their claims. Continuing investigation and discovery may cause Plaintiffs to supplement or amend these disclosures, by taking steps including (though not limited to) identifying other potential witnesses, identifying other potentially relevant documents, and by disclosing other pertinent information.

By providing these supplemental disclosures, Plaintiffs do not represent that they are identifying every document, tangible thing, or witness potentially relevant to this action. In addition, these disclosures are made without waiver of Plaintiffs' right to object to any discovery request or proceeding involving or relating to the subject matter of these disclosures on any grounds, including (though not limited to) privilege, relevancy, hearsay, undue burden, confidentiality, privacy, or any other appropriate grounds for objection.

2. Documents

Copies of all unprivileged documents in the possession, custody or control of Plaintiffs that Plaintiffs may use to support their claims are being provided to defense counsel concurrently. Documents pertaining to Plaintiff Owen Diaz have been Bates stamped ODIAS000001-000009. Documents pertaining to Plaintiff Demetric Di-az have been Bates stamped DDIAZ000001-000010. Mr. Di-az's documents have been redacted to exclude attorney-client communications.

Plaintiffs will supplement their production within the next 10 days to include additional information required by General Order No. 71.

Supplemental Disclosure

Plaintiffs subsequently produced additional required documents, Bates-stamped DDIAZ000011-DDIAZ000029 and ODIAS000011-ODIAS00391.

3(a). Witnesses

The following individuals are likely to have discoverable information that Plaintiffs may use to support their claims:

Name	Contact Information	Substance of Information
Di-az, Demetric	Mr. Diaz can be contacted through his counsel.	Mr. Di-az has information regarding Defendants' discriminatory and retaliatory conduct towards him, as well as information regarding his damages.

Diaz, Owen	Mr. Diaz can be contacted through his counsel.	Mr. Diaz has information regarding Defendants' discriminatory and retaliatory conduct towards him, as well as information regarding his damages.
Patterson, Lamar	Mr. Patterson can be contacted through his counsel.	Mr. Patterson has information regarding Defendants' discriminatory and retaliatory conduct towards Plaintiffs.
Foster, Rothai	Contact information unknown.	Mr. Foster has information regarding Defendants' discriminatory and harassing behavior towards Owen Diaz.
Gardner, Jay	Contact information unknown.	Mr. Gardner participated in the harassment and discrimination of Owen Diaz. Additionally, as a supervisor, Mr. Gardner has knowledge of Defendants' policies and practices pertaining to racial harassment and discrimination.
Holmes, Demetrica	Ms. Holmes can be contacted through Plaintiff's counsel.	Ms. Holmes has information regarding Plaintiffs' emotional distress damages.
Jackson, W. (First name unknown)	Contact information unknown.	Mr. Jackson has knowledge regarding Plaintiffs' complaints of discrimination and harassment to Defendants. Additionally, as a supervisor, Mr. Jackson has knowledge pertaining to Defendants' policies and procedures as they relate to racial harassment and discrimination.
Jones, La'Drea	Ms. Jones can be contacted through Plaintiff's counsel	Ms. Jones has information regarding Plaintiffs' emotional distress damages.

Kawasaki, Tom	Contact information unknown.	Mr. Kawasaki has knowledge of Defendants' harassment of Plaintiffs. Additionally, as a supervisor, Mr. Kawasaki has knowledge pertaining to Defendants' policies concerning racial harassment and discrimination.
Oliver (Last name unknown)	Contact information unknown.	Oliver has information pertaining to Defendants' racially discriminatory and harassing treatment of Owen Diaz.
Paul (Last name unknown)	Contact information unknown.	Paul has information pertaining to Defendants' racially discriminatory and harassing treatment of Owen Diaz.
Musk, Elon	Contact information unknown.	Mr. Musk has information pertaining to Defendants' policies and procedures regarding racial harassment and discrimination.
Ramon (Last name unknown)	Contact information unknown.	Ramon participated in the harassment and discrimination against Owen Diaz. Furthermore, as a supervisor, Ramon has knowledge of Defendants' policies and procedures pertaining to racial harassment and discrimination.
Robert (Last name unknown)	Contact information unknown.	Robert participated in the harassment and discrimination against Owen Diaz.

Romero, Ed	Contact information unknown.	Mr. Romero has information pertaining to Owen Diaz's complaints of discrimination and harassment to Defendants. Additionally, as a supervisor, Mr. Romero has knowledge of Defendants' practices and policies pertaining to racial harassment and discrimination.
TJ (Last name unknown)	Contact information unknown.	TJ has information pertaining to Defendants' discriminatory and harassing conduct towards Demetric Di-az.
Wheeler, Michael	Contact information unknown.	Mr. Wheeler has knowledge of Defendants' harassing and discriminatory conduct towards Owen Diaz. Additionally, as a supervisory employee of Defendants, Mr. Wheeler has knowledge of Defendants' policies concerning racial harassment and discrimination.

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Supplemental Response:

Name	Contact Information	Substance of Information
Wheeler, Michael	Phone: (510)-938-4393	<p>Mr. Wheeler has knowledge of Defendants' harassing and discriminatory conduct towards Owen Diaz. Additionally, as a supervisory employee of Defendants, Mr. Wheeler has knowledge of Defendants' policies concerning racial harassment and discrimination.</p> <p><u>Supplemental Disclosure:</u> Mr. Wheeler is also likely to have discoverable information regarding racial harassment, racial discrimination, and the hostile working environment at Defendant Tesla's Fremont Factory.</p>
Kawasaki, Tamotsu	Phone: (650)-454-4543	<p>Mr. Kawasaki has knowledge of Defendants' harassment of Plaintiffs. Additionally, as a supervisor, Mr. Kawasaki has knowledge pertaining to Defendants' policies concerning racial harassment and discrimination.</p> <p><u>Supplemental Disclosure:</u> Mr. Kawasaki is likely to have knowledge of Plaintiff Owen Diaz's complaints of racial harassment.</p>

Nigel Jones	Mr. Jones may be contacted through Plaintiffs' counsel.	Mr. Jones has knowledge of the racially harassing and discriminatory environment in Tesla's Fremont factory, including racist graffiti displayed in the restrooms.
Melvin Berry	Contact information unknown.	Mr. Berry has knowledge of the racially harassing and discriminatory environment in Tesla's Fremont factory, Tesla's response to complaints about the use of racial slurs, and Tesla's failure to prevent a harassing and discriminatory work environment.
Nathan Fraim	Mr. Fraim may be contacted through Plaintiffs' counsel.	Mr. Fraim has knowledge of the racially harassing and discriminatory work environment and racist graffiti in Tesla's Fremont factory.
Dewitt Lambert	Mr. Lambert may be contacted through Plaintiffs' counsel.	Mr. Lambert has knowledge of the racially harassing, discriminatory, and retaliatory work environment, as well as the racist graffiti displayed in Tesla's Fremont factory.
Tori Johnson	Mr. Johnson may be contacted through Plaintiffs' counsel.	Mr. Johnson has knowledge of the racially discriminatory and harassing work environment employees of Defendant Citistaff experienced while working in Tesla's Fremont factory, including the use of racial slurs and the display of racist graffiti.

Titus McCaleb	Mr. McCaleb may be contacted through Plaintiffs' counsel	Mr. McCaleb has knowledge of the racially harassing, discriminatory, and retaliatory treatment of Defendant West Valley's employees at Tesla's Fremont factory.
Jakel Williams	Ms. Williams may be contacted through Plaintiffs' counsel.	Ms. Williams has knowledge of the racially harassing and discriminatory working environment in Tesla's Fremont factory, as well as NextSource's handling of complaints of racial harassment and discrimination.
Alfonso Franco	Unknown	Mr. Franco has knowledge of the racially harassing and discriminatory working environment in Tesla's Fremont factory, as well as Tesla's failure to investigate and prevent harassment.

Further Supplemental Response:

Name	Contact Information	Substance of Information
Melvin Berry	Mr. Berry may be contacted through Plaintiffs' counsel.	Mr. Berry has knowledge of the racially harassing and discriminatory environment in Tesla's Fremont factory, Tesla's response to complaints about the use of racial slurs, and Tesla's failure to prevent a harassing and discriminatory work environment.

Jeff Henry	Unknown.	Mr. Henry has knowledge of the racially harassing and discriminatory working environment in Tesla's Fremont factory, as well as Tesla's failure to investigate and prevent harassment.
Richard Hayes	Unknown	Mr. Hayes has knowledge of the use of racial slurs, such as the "n-word", in Tesla's factory.
Javier Temores	Unknown	Mr. Temores has knowledge of the racially harassing and discriminatory working environment in Tesla's Fremont factory, as well as Tesla's failure to investigate and prevent harassment.
Kevin Colvin	Unknown	Mr. Colvin has knowledge of the racially harassing and discriminatory working environment in Tesla's Fremont factory, as well as Tesla's failure to investigate and prevent harassment.
Victor Contreras	Unknown	Mr. Contreras has knowledge of the racially harassing and discriminatory working environment in Tesla's Fremont factory.
Andres Donet	Unknown	Mr. Donet has knowledge of the racist graffiti in the restrooms of Tesla's Fremont factory.
Paul James	Unknown	Mr. James has knowledge of complaints of racial harassment and discrimination from employees at Tesla's Fremont factory.

Maggie Crosby	Unknown	Ms. Crosby has knowledge of complaints of racial harassment and discrimination from employees at Tesla's Fremont factory.
Liza Lipson	Unknown	Ms. Lipson has knowledge of complaints of racial harassment and discrimination from employees at Tesla's Fremont factory.
Joshua Mantz	Unknown	Mr. Mantz has knowledge of complaints of racial harassment and discrimination from employees at Tesla's Fremont factory.

3(b). Damages

Plaintiffs seek the following categories of damages:

- General damages, including past and future mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation and emotional distress.
- Special damages, including past and future lost wages.
- Injunctive relief to require Defendants to better train its staff on race harassment, discrimination and retaliation, and develop effective policies and procedures to ensure that when harassment is reported, the company takes effective remedial measures;
- Civil penalties pursuant to Section 52(a), 52(b)(2), and 52.1(a) of the California Civil Code; and Section 1102.5(f) of the California Labor Code;
- Attorneys' fees and costs pursuant to sections 52(a), 52(b)(3), and 52.1(h) of the California Civil Code; section 12965(b) of the California Government Code, and any other applicable statute;
- Interest as provided by law; and
- Costs of suit.

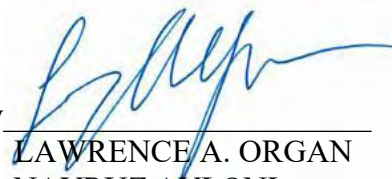
3(c). Disability and Social Security Benefits

Plaintiffs have not applied for disability or social security benefits after the adverse action.

Dated: October 16, 2019

CALIFORNIA CIVIL RIGHTS LAW GROUP

By



LAWRENCE A. ORGAN

NAVRUZ AVLONI

Attorneys for Plaintiffs

DEMETRIC DI-AZ and OWEN DIAZ

Exhibit

13

Lawrence A. Organ (SBN 175503)
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navruz@civilrightsca.com

Attorneys for Plaintiffs
DEMETRIC DIAZ, OWEN DIAZ,
and LAMAR PATTERSON

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DIAZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. dba TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.;
and DOES 1-10 inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

Owen Diaz, Demetric Diaz, and Lamar Patterson v. Tesla, Inc., et al.

United States District Court, Northern Dist. California, Case No. 3:17-cv-06748-WHO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Marin, State of California. My business address is 332 San Anselmo Avenue, San Anselmo, CA 94960. On October 16, 2019, I served true copies of the following document(s) described as:

- **PLAINTIFFS DEMETRIC DI-AZ AND OWEN DIAZ'S SUPPLEMENTAL INITIAL DISCLOSURES PURSUANT TO GENERAL ORDER NO. 71.**

xx by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Anselmo, addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing contained in the affidavit.

on the interested parties in this action as follows:

Attorneys for Defendants Tesla, Inc.:

Tracey A. Kennedy
Sheppard Mullin
333 South Hope Street
43rd Floor
Los Angeles, California 90071

Reanne Swafford-Harris
Patricia Jeng
Sheppard Mullin
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111

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Attorneys for Defendants Citistaff Solutions:

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1300 Clay Street, Ste. 810
Oakland, California 94612

Attorneys for Defendant West Valley Staffing Group:

Fenn C. Horton, III
Helene Anastasia Simvoulakis
PAHL & MCKAY
225 West Santa Clara St, Suite 1500
San Jose, CA 95113

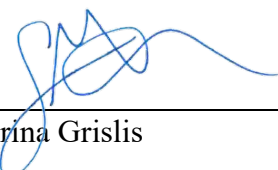
Attorneys for Defendant nextSource, Inc.:

Jason A. Geller
Juan C. Araneda
Vincent J. Adams
FISHER & PHILLIPS LLP
One Embarcadero Center, Suite 2050
San Francisco, California 94111

____ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

 X (Federal) I declare that I am employed in the office of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on October 16, 2019 at San Anselmo, California.



Sabrina Grislis

Exhibit

14

EEOC Form 5 (1/10)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 555-2017-00881	
California Department Of Fair Employment & Housing and EEOC <small>State or local Agency, if any</small>			
Name (Indicate Mr., Ms., Mrs.) Mr. Titus V. McCaleb		Home Phone (Incl. Area Code) <div style="background-color: black; width: 100px; height: 1.2em;"></div>	
Date of Birth 1976		Street Address <div style="background-color: black; width: 200px; height: 1.2em;"></div>	
City, State and ZIP Code			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name WEST VALLEY STAFFING GROUP		No. Employees, Members 500 or More	
Phone No. (Include Area Code) (408) 735-1420		Street Address 390 Potrero Avenue, Sunnyvale, CA 94085	
City, State and ZIP Code			
Name _____		No. Employees, Members _____	
Phone No. (Include Area Code) _____		Street Address _____	
City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN		02-23-2017 06-06-2017	
<input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION		<input type="checkbox"/> CONTINUING ACTION	
<input type="checkbox"/> OTHER (Specify) _____		_____	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)). <p>I was hired by Respondent to work at TESLA on or about November 6, 2016 as a production associate and media specialist. I performed the duties of my job satisfactorily.</p> <p>I am African American. On or about November 7 or 8, 2016, a non-management co-worker (non-African American) at TESLA called me a "nigger"/"nigga" while in the presence of several Leads. I expressed my offense to this word, but no action was taken. On or around March 15, 2017, another non-management co-worker called me this word again. This particular co-worker has used this word when referring to me at least three times. Finally, on or around June 2, 2017, yet another non-management co-worker referred to me as "nigga." Subsequently, I complained to my supervisor at TESLA, Ron Lardizabal, and also to the HR manager at TESLA, Brandie To about these incidents. I was told by HR that my integrity was in question and that my story did not have any merit. Another manager, Afton Zersteeth, told me that if I kept complaining that I might be terminated. I was terminated on June 6, 2017.</p> <p>I believe that I have been discriminated against and harassed due to my race, in violation of Title VII of the Civil Rights Act of 1964, as amended. I also believe that I was retaliated against because of my engagement in protected activity, in violation of the same statute.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
_____ Date Charging Party Signature		SIGNATURE OF COMPLAINANT <div style="text-align: right; font-weight: bold; font-size: 1.2em;">RECEIVED</div> <div style="text-align: right; font-weight: bold; font-size: 1.2em;">JUN 27 2017</div>	

EEOC - OLO

 WV000397
 CONFIDENTIAL

Exhibit

15

Di-Az, et al., v. Tesla, et al

Northern District, Oakland Division: 17-cv-06748-WHO

PROOF OF SERVICE

State of California)
) xx
 County of Santa Clara)

I am a citizen of the United States and an employee of the County aforesaid. I am over the age of eighteen years and not a party to the within action. My business address is 225 West Santa Clara Street, Suite 1500, San Jose, California 95113-1752. On the date mentioned below, I caused a true copy(ies) of the following document(s) to be served on the parties below using the method(s) checked:

• **DOCUMENTS PRODUCED BY WEST VALLEY STAFFING GROUP – BATES NOS. WV000355-WV000537 (CONFIDENTIAL)**

On the Addressee(s) below named in said action by:

- ☒ First Class Mail. I am familiar with the regular mail collection and processing practices of the business. The mail will be deposited with The United States Postal Service on the same day following ordinary business practices. I enclosed the above-mentioned document(s) in a sealed envelope with postage thereon fully prepaid in the United States Post Office mail box at San Jose, California.
- ☐ Facsimile at the fax numbers shown after each name below.
- ☐ By Federal Express pursuant to Code of Civil Procedure § 1005.
- ☐ By Electronic Mail.

Addressee(s):

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I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on March 8, 2019, San Jose, California.


Michelle Garcia

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Exhibit

16

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ENDORSED
FILED
ALAMEDA COUNTY

MAR 27 2017

CLERK OF COURT
By TANIA PIERCE Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

DEWITT LAMBERT,

Plaintiff,

v.

TESLA, INC. DBA TESLA MOTORS, INC.;
and DOES 1-10, inclusive,

Defendants.

Case No.

RG 17854515

COMPLAINT FOR DAMAGES

1. Race Harassment (FEHA);
2. Race Discrimination (FEHA);
3. Sexual Harassment (FEHA);
4. Retaliation (FEHA);
5. Failure to Prevent Harassment, Discrimination and Retaliation (FEHA);
6. Threats of Violence in Violation of the Ralph Act (Cal. Civ. Code § 51.7);
7. Violation of the Bane Act (Cal. Civ. Code § 52.1);
8. Failure to Accommodate (FEHA);
9. Failure to Engage in Interactive Process (FEHA);
10. Assault; and
11. Battery (Cal. Civ. Code § 1708.5).

JURY TRIAL DEMANDED

INTRODUCTION

Nigger, we take your ass home, nigger. Shred you up in pieces, nigger. Cut you up, nigger. Send your ass so everyone in yo family so everybody can have a piece of you, nigger. Straight up, nigger. We get down like that, nigger.

1. Although one may think the above statement came from a Pre-Civil Rights Era Ku Klux Klan member; this hateful, violent and racist rhetoric actually came from a Head Lead on the assembly line at Tesla, Inc. dba Tesla Motors, Inc. ("Tesla"), a 21st century company in the heart of Silicon Valley. This Head Lead, along with another Supervisor, Lead and Production Associate continue to roam the halls of Tesla today, even though Tesla is aware that they subjected Plaintiff DeWitt Lambert to repeated racist epithets for months.

2. Mr. Lambert, who is African American, is an electrician by trade. He traveled across the country, from Alabama to California in 2012, in hopes of a brighter future. Joining Tesla in 2015 was a dream come true for Mr. Lambert, and he was excited to be building cars for a company that is at the forefront of modern day technology and innovation. Unfortunately, almost immediately after starting at Tesla, Mr. Lambert learned that although the company may be revolutionizing the world of transportation, it lagged miles behind when it came to adhering to civil rights that his ancestors fought so hard to obtain more than half a century ago.

PARTIES

3. Plaintiff DeWitt Lambert has been employed by Tesla as a Production Associate since approximately June 26, 2015. Plaintiff is, and at all times relevant herein was, a resident of Oakland, California.

4. Defendant Tesla is a publicly-traded Delaware corporation with its principal place of business in Palo Alto, California. In approximately February 2017, Tesla Motors, Inc. changed its name to Tesla, Inc. Tesla designs, manufactures, and sells electric vehicles, and operates its vehicle manufacturing factory at 45500 Fremont Blvd., Fremont, California. The harassers' conduct at issue in this case took place at the Fremont factory.

1 5. In addition to the Defendant named above, Plaintiff sues fictitiously Defendants
2 DOES 1 through 10, inclusive, pursuant to Code of Civil Procedure § 474, because their names,
3 capacities, status, or facts showing them to be liable are not presently known. Plaintiff is
4 informed and believes, and thereon alleges, that each of the fictitiously named Defendants is
5 responsible in some manner for the occurrences herein alleged, and such Defendants caused
6 Plaintiff's damages as herein alleged. Plaintiff will amend this complaint to show their true
7 names and capacities, together with appropriate charging language, when such information has
8 been ascertained.

9 6. Plaintiff is informed and believes and thereon alleges that at all times herein
10 mentioned each of the Defendants were acting as the partner, agent, servant, and employee of
11 each of the remaining Defendants, and in so doing the things alleged herein was acting within the
12 course and scope of such agency and with the knowledge of the remaining Defendants.

13 **JURISDICTION AND VENUE**

14 7. Jurisdiction and venue are proper because a substantial portion of the acts giving
15 rise to Defendant's liability occurred in this County and pursuant to California Government Code
16 section 12965.

17 8. The amount in controversy exceeds limited jurisdiction.

18 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

19 9. On or about October 26, 2016, Plaintiff filed a timely charge against Defendant
20 Tesla with the Department of Fair Employment and Housing alleging harassment and
21 discrimination based on race, color and sex; retaliation; failure to prevent harassment,
22 discrimination and retaliation; failure to accommodate; and failure to engage in a good faith
23 interactive process. The DFEH issued a right-to-sue letter regarding this charge on October 26,
24 2016.

25 **FACTUAL ALLEGATIONS**

26 10. Mr. Lambert, an African American 44-year-old, traveled across the country, from
27 Alabama to California, in 2012, seeking gainful employment and a better future. Equipped with
28 extensive education in the field of electrical engineering, Mr. Lambert began his career in

1 California by taking on electrician jobs. He subsequently landed a Production Associate position
2 at Tesla's Fremont factory on June 26, 2015. Eager to succeed and grow through the ranks at a
3 company that was revolutionizing the car industry, Mr. Lambert worked hard and put in long
4 hours.

5 11. From approximately June 26, 2015 until April 2016, Mr. Lambert was assigned to
6 Chassis Two, where he worked with Supervisor Charles Lambert, Head Lead Christian Kramer,
7 Lead Jose Jimenez, Production Associate Crispin Rodriguez and Production Associate Treat
8 Doan.

9 12. Almost immediately after Mr. Lambert began working on Chassis Two, Mr.
10 Kramer, Mr. Jimenez, Mr. Rodriguez and Mr. Doan, who are all in their twenties, began
11 targeting Mr. Lambert and engaging in unprofessional conduct, including: attaching vin number
12 stickers on Mr. Lambert's back; filling Mr. Lambert's back pockets with gold nuts and screws;
13 sticking tools in Mr. Lambert's pocket; hiding Mr. Lambert's tools; using adhesive tape to stick
14 Mr. Lambert's tools to a table; stealing Mr. Lambert's phone, and taking photos and videos on it
15 without his permission. Mr. Lambert pleaded for them to stop.

16 13. A month or two into Mr. Lambert's employment, Mr. Kramer's, Mr. Jimenez's,
17 Mr. Rodriguez's and Mr. Doan's conduct took on a racist tone. The Chassis Two employees
18 began calling Mr. Lambert "Nigger" on a continuous basis, and making comments, such as,
19 "Don't this nigger look just like Samuel Jackson;" "Don't he look like this nigger [referring to
20 Samuel Jackson in Django Unchained], these two niggers are just alike;" "Don't this nigger look
21 like Major Payne;" and "The black version of Mr. Clean Right there." This racist behavior
22 included threats of violence. The group would flash 408 gang signs at Mr. Lambert, and one of
23 the employees detailed how he was going to cut Mr. Lambert up into pieces and send his body
24 parts to his family members. The harassing conduct was part of a continuous course of conduct.

25 14. The group also attacked Mr. Lambert based on his sex. For example, while Mr.
26 Lambert was bent over working on the line, Mr. Kramer stuck a drill gun into Mr. Lambert's
27 buttocks in front of his co-workers. Comments were also made about the size of Mr. Lambert's
28 penis, including, "I bet you my dick is bigger than yours," and "He said you got that baby

1 dick...is that dick so small you piss on your balls.” These employees would also imitate sex
2 between a man and a woman with fingers, imitate performing oral sex on a man with mouth and
3 finger in front of Mr. Lambert, and make comments to Mr. Lambert, such as, “Tell your bitch to
4 stop texting me.” This conduct was in part an attack on his identity as an older African
5 American male and on the racial and sexual stereotypes of African American males.

6 15. It is very difficult to imagine such blatant racism and sexism permeating the
7 workplace in 21st century Bay Area and at a progressive company, such as Tesla. However,
8 these unabashed harassers went out of their way to document their racist and sexist behavior by
9 leaving several video recordings on Mr. Lambert’s phone.

10 16. Mr. Lambert begged these Chassis Two employees to stop harassing him. On
11 numerous occasions, and as early as Fall 2015, Mr. Lambert complained to Supervisor Charles
12 Lambert about the hostile work environment. He also asked, “Why do they use the N-word so
13 freely around here?” Charles Lambert’s response each time was to ask Chassis Two employees
14 to stop referring to Mr. Lambert as “Nigger.” In addition to complaining to his supervisor, Mr.
15 Lambert turned to the Human Resources Department for help. He complained to Human
16 Resources about being called “Nigger” in the workplace, and some of the other above-described
17 harassing conduct. He was told that Human Resources would look into it. However, the hostile
18 work environment continued and there was no evidence human resources conducted any
19 investigations into Mr. Lambert’s complaints or took action to stop the harassment which
20 continued.

21 17. Mr. Lambert then took action on his own to move out of Chassis Two by applying
22 for numerous positions in other departments. Starting in December 2015, Mr. Lambert submitted
23 numerous applications for various positions at Tesla. Unfortunately, none of them lead to a
24 transfer. Mr. Lambert pleaded with Human Resources to be moved to another line.

25 18. Rather than promptly investigate the matter, put an end to the hostile work
26 environment and reprimand the harassers, Tesla rewarded the harassers with promotions. In
27 approximately February 2016, Mr. Kramer was promoted to Supervisor of Chassis Two, Mr.
28 Jimenez was promoted to Head Lead, and Mr. Rodriguez and Mr. Doan were both promoted to

1 Lead positions. At the same time, Supervisor Charles Lambert, who is African America, was
2 transferred to another line.

3 19. After Supervisor Charles Lambert's transfer, the new Supervisor Christian
4 Kramer threatened Mr. DeWitt Lambert with, "Your ass is outta here now. Charles isn't here to
5 protect you anymore." Mr. Dewitt Lambert complained to Supervisor Charles Lambert about the
6 hostile statements, however, the hostile comments continued.

7 20. Shortly after Mr. Kramer became the Supervisor of Chassis Two, the employees
8 began taking active steps to get Mr. Lambert fired. They tried to provoke Mr. Lambert by
9 intensifying the harassment. Mr. Lambert would respond with, "I'm not losing my job for one of
10 you kids." In approximately February 2016, a Lead from another line told Mr. Kramer, "You
11 trying to set that man up. That man has a family. You don't do shit like that." Mr. Kramer also
12 issued Mr. Lambert a write up for eating a snack bar on the line. Not only were other employees
13 not reprimanded for eating food on the line, but just a few days prior, donuts were passed around
14 the line and no one was reprimanded for eating the donuts on the line. Mr. Lambert complained
15 to Assistant Manager Alfonso Franco about the harassment and the retaliation. In response, Mr.
16 Franco stated, "You all need to get along."

17 21. After enduring months of harassment, Mr. Lambert was finally transferred out of
18 Chassis Two to Station 40 in April 2016. However, the retaliatory conduct of the harassers did
19 not stop there. In approximately July 2016, one of the harassers brought up to Human Resources'
20 attention a photograph of Mr. Lambert taken inside the Tesla Fremont factory and posted on
21 Facebook. As a result, Mr. Lambert received a final written warning. Other employees, who had
22 photographs of themselves at the Tesla Fremont factory on their Facebook profiles, were not
23 reprimanded. Mr. Lambert addressed this final warning with Human Resources. During this
24 meeting, Human Resources Representative Rose Sanson observed the hateful, violent and racist
25 videos created by Chassis Two employees, including Mr. Kramer and Mr. Rodriguez. Even after
26 viewing the videos, however, Tesla failed to investigate and reprimand the harassers. Rather,
27 again, it promoted one of the harassers – Jose Jimenez – to Supervisor.
28

1 22. During this time period, Tesla also continued to discriminate against Mr. Lambert
2 by refusing to promote him. Mr. Lambert was initially turned down for a promotion because he
3 had not met the alleged six-month requirement period, although, at least one of the harassers,
4 who also did not meet the six-month requirement period, received a promotion. Later, Mr.
5 Lambert was again denied a promotion because he was issued the above-described retaliatory
6 write-ups.

7 23. Tesla also retaliated against Mr. Lambert by refusing to properly rotate him,
8 thereby causing a serious injury to his back. Because Production Associates often engage in
9 repetitive work, Tesla's policies require that they rotate their Production Associates every two
10 hours to avoid injuries. Tesla failed to rotate Mr. Lambert. Mr. Lambert complained on multiple
11 occasions about not being rotated and developing pain in his lower back due to the repetitive
12 motion. He complained to Human Resources and his Supervisor. He told them, "tell them to
13 rotate me," "you need to rotate me," and "my back is killing me." Human Resources
14 Representative Erin Garcia stated she would speak to Supervisor Cole Buchner about this matter.
15 However, Mr. Lambert continued to work on the same station and was refused alternative work.
16 In fact, employee Jared (last name unknown) told Mr. Lambert that the last employee that
17 performed Mr. Lambert's job incurred a back injury.

18 24. After working in a confined space for 12 hours a day, 6 days a week, and without
19 being rotated for three months, Mr. Lambert suffered a lumbar back strain that caused radiating
20 pain starting from his lower back down to his upper buttocks, and resulted in a visit to the
21 emergency room. On July 29, 2016, the Tesla Health Center conducted a physical of Mr.
22 Lambert and issued work restrictions, that limited lifting, pushing and pulling to 10 pounds or
23 less, prohibited stooping and bending, and limited standing or sitting to a maximum of 4 hours
24 per day.

25 25. Despite the doctor's orders, Supervisor John Maestre refused to accommodate Mr.
26 Lambert and instead forced Mr. Lambert to continue working 12 hours per day, and engage in
27 the same repetitive motion that caused the back injury. Mr. Maestre refused to take Mr.
28

1 Lambert's injury and accommodations request seriously, and told Mr. Lambert that if he could
2 not do the work, then he should go home.

3 26. Mr. Lambert brought Mr. Maestre a Work Status Recommendation from his
4 medical provider requiring that he perform mostly seated work and limit standing/walking to no
5 more than 10 minutes per hour. Mr. Maestre initially provided Mr. Lambert with a plastic crate
6 with no back support as an accommodation. Other employees had regular chairs with back
7 support. When Mr. Lambert asked for a chair with back support he was told that this request
8 would not be accommodated because it was not specified in the Work Status Recommendation.
9 Mr. Lambert's doctor issued a *new* Work Status Recommendation limiting Mr. Lambert to,
10 "Mostly seated with *back support*. Limit standing to no more than 10 minutes/hour." This time,
11 Mr. Maestre refused to accommodate Mr. Lambert because no chairs were allegedly allowed on
12 the line, although other employees were using chairs. Mr. Maestre ordered Mr. Lambert to go
13 home. Mr. Lambert complained to Human Resources Representative Elyse Elliott for being
14 forced to go on leave when he was more than capable of performing the job with the assistance
15 of a chair. In response, Ms. Elliott instructed Mr. Lambert to go home, and notified him that the
16 company would contact him when it had light duty available. As a result, from September 1,
17 2016 until November 22, 2016, Mr. Lambert was forced to go on leave because Tesla refused to
18 accommodate his simple request for a chair with back support.

19 27. After Plaintiff raised his concerns, Defendant reacted by attacking Plaintiff and
20 his conduct. Defendant falsely accused Plaintiff of fighting and threatening other workers, of
21 using profanity in the workplace and investigating him for conduct in the distant past. Many of
22 these accusations originally came from the harassers. This appears to be part of a campaign to
23 threaten, bully and smear Plaintiff in an effort to victimize the victim for exercising his rights.

24 28. As a result of the acts and omissions of Defendant, Plaintiff has suffered, and
25 continues to suffer, emotional distress and psychological damage including, but not limited to:
26 depression, anxiety, stress, insomnia, loss of confidence and self-esteem, and uncertainty
27 regarding the future. Defendant's actions have also resulted in past wage and benefit loss, and
28 are expected to result in economic loss in the future.

29. As a result of Defendant's actions, Plaintiff hired private counsel to prosecute his claims. Pursuant to California Government Code section 12965(b), and Civil Code sections 52(b)(3) and 52.1(h), Plaintiff is entitled to recover attorney's fees and costs associated with the prosecution of these claims.

30. Defendant's acts were malicious, oppressive, or fraudulent with intent to vex, injure, annoy, humiliate and embarrass Plaintiff, and in conscious disregard of the rights or safety of Plaintiff and other employees of Defendant. Plaintiff is informed and believes that managing agents, officers or directors of Defendant ratified the wrongful conduct of the employees and managers of Defendant by knowing of the conduct and failing to take immediate remedial action and by retaining the errant employees in their employment with Defendant after knowing of the conduct and about which Plaintiff became aware.

FIRST CAUSE OF ACTION

(Racial Harassment)

Cal. Govt. Code § 12940, *et seq.*

31. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

32. Plaintiff at all times was an employee covered by the Fair Employment and Housing Act ("FEHA"), California Government Code §§ 12940(a) and (j), which prohibits an employer from discriminating and harassing an employee on the basis of color and race.

33. Defendant Tesla was at all times an employer defined under the FEHA as explained above.

34. The above described actions of Supervisor Christian Kramer, Head Lead Jose Jimenez, Lead Crispin Rodriguez, Lead Treat Doan, and Defendant Tesla, in its capacity as an employer, constitute racial harassment and discrimination in violation of the FEHA. Plaintiff was subjected to working in a severe, persistent and/or pervasive racially hostile work environment, which interfered with his work performance, denied him employment privileges, and adversely affected the terms and conditions of his job on the basis of his race.

1 35. The harassing conduct to which Plaintiff was subjected to was so severe,
 2 widespread, and/or persistent that a reasonable African American in Plaintiff's circumstances
 3 would have considered the work environment to be hostile or abusive.

4 36. Plaintiff considered the work environment to be hostile and/or abusive.

5 37. Supervisor Kramer, along with other Chassis Two employees, engaged in the
 6 racially harassing conduct as set forth herein. Defendant Tesla failed to take prompt, remedial
 7 and effective action to stop the harassers.

8 38. Defendant's violations of the FEHA caused Plaintiff to suffer harm as set forth
 9 above.

10 39. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set
 11 forth herein.

12 40. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily
 13 retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable
 14 attorney's fees and litigation expenses, including expert witness fees and costs, incurred in
 15 bringing the within action.

16 41. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively,
 17 and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of
 18 the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice.
 19 Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to
 20 proof.

21 **SECOND CAUSE OF ACTION**

22 (Race Discrimination)

23 Cal. Govt. Code § 12940, *et seq.*

24 42. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs,
 25 as though fully set forth herein.

26 43. Plaintiff at all times was an employee covered by the FEHA, California
 27 Government Code §§ 12940(a) and (j), which prohibits an employer from discriminating against
 28 an employee on the basis of color and race.

1 44. Defendant Tesla was at all times an employer defined under the FEHA as
2 explained above.

3 45. Tesla failed to promote Plaintiff because of his color and race.

4 46. Defendant's practice was a substantial factor in causing Plaintiff's harm.

5 47. Defendant's violations of the FEHA caused Plaintiff to suffer harm as set forth
6 above.

7 48. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set
8 forth herein.

9 49. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily
10 retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable
11 attorney's fees and litigation expenses, including expert witness fees and costs, incurred in
12 bringing the within action.

13 50. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively,
14 and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of
15 the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice.
16 Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to
17 proof.

18 **THIRD CAUSE OF ACTION**

19 (Sexual Harassment)

20 Cal. Govt. Code § 12940, *et seq.*

21 51. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs,
22 as though fully set forth herein.

23 52. The above conduct by Plaintiff's supervisor Kramer, Rodriguez, and other
24 Chassis Two employees, was unwelcome, severe, and/or pervasive, directed towards Plaintiff,
25 and part of an ongoing and continuing pattern of conduct.

26 53. The above conduct caused Plaintiff to perceive his work environment as
27 intimidating, hostile, abusive, or offensive, and a reasonable person in Plaintiff's position would
28 perceive the work environment as intimidating, hostile, abusive, or offensive.

54. Complaints and/or information regarding such harassing conduct were made to Defendant Tesla.

55. Defendant's violations of the FEHA caused Plaintiff to suffer harm as set forth above.

56. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set forth herein.

57. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

58. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

FOURTH CAUSE OF ACTION

(Retaliation)

Cal. Govt. Code 12940(h)

59. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

60. Plaintiff complained of harassment and discrimination that violated the FEHA.

61. Defendant Tesla took no action to ensure that Plaintiff was not retaliated against or threatened for having complained. After his complaints, the harassment intensified; the harassers attempted to force Plaintiff to quit and to have his job terminated; he was unfairly written up; he was prevented from receiving promotions; he was not properly rotated, which resulted in an injury; and he was denied accommodations for his injury.

62. Defendant Tesla failed to take appropriate action to protect Plaintiff.

63. As a result of Defendant Tesla's action or inaction, Plaintiff was subject to retaliation and additional harassment.

1 64. Plaintiff's complaint was a motivating reason for the retaliatory actions of
2 Defendant Tesla.

3 65. Defendant's violations of the FEHA caused Plaintiff to suffer harm as set forth
4 above.

5 66. As a result of Defendant Tesla's unlawful acts, Plaintiff is entitled to damages as
6 set forth herein.

7 67. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily
8 retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable
9 attorney's fees and litigation expenses, including expert witness fees and costs, incurred in
10 bringing the within action.

11 68. Defendant Tesla did the acts alleged herein maliciously, fraudulently, and
12 oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious
13 disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting
14 to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount
15 according to proof.

16 **FIFTH CAUSE OF ACTION**

17 (Failure to Prevent Discrimination, Harassment and Retaliation)
18 Cal. Govt. Code § 12940, *et seq.*

19 69. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs,
20 as though fully set forth herein.

21 70. Defendant Tesla failed to take all reasonable steps to prevent the harassment,
22 discrimination and retaliation described above. Defendant knew or should have known that Mr.
23 Kramer, Mr. Rodriguez and others had engaged in racially offensive behavior in the past and
24 failed to stop it.

25 71. Despite being on notice of Mr. Kramer's, Mr. Rodriguez's and other employees'
26 propensity to engage in harassing conduct, Defendant failed to act to prevent Mr. Kramer, Mr.
27 Rodriguez and other employees from harassing Plaintiff and failed to prevent the further
28 harassment and retaliation that occurred following Plaintiff's complaint.

72. Defendant Tesla also failed to enact an anti-discrimination policy and/or failed to distribute it appropriately and failed to effectively train its employees on racial and/or sex harassment or discrimination.

73. As a result of Defendant Tesla's violations of the FEHA, Plaintiff suffered harm as set forth above.

74. As a result of Defendant Tesla's unlawful acts, Plaintiff is entitled to damages as set forth herein.

75. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

76. Defendant Tesla did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

SIXTH CAUSE OF ACTION

(Threats of Violence in Violation of Cal. Civ. Code §§ 51.7, 52(b))

77. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

78. Crispin Rodriguez threatened to commit violent acts against Plaintiff.

79. A substantial motivating reason for Rodriguez's conduct was Plaintiff's race.

80. Rodriguez interfered with Plaintiff's right to be free from discrimination or violence on the basis of race, by threatening Plaintiff.

81. Defendant Tesla adopted the conduct, through its officers, directors, managing agents, or supervisory employees. It further ratified the conduct by failing to take appropriate prompt remedial action.

1 82. Defendant's conduct caused Plaintiff to suffer, and continue to suffer damages as
2 set forth above.

3 83. As a result of these Defendant's unlawful acts, Plaintiff is entitled to damages set
4 forth herein.

5 84. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily
6 retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable
7 attorney's fees and litigation expenses, including expert witness fees and costs, incurred in
8 bringing the within action.

9 85. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively,
10 and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of
11 the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice.
12 Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to
13 proof.

14 **SEVENTH CAUSE OF ACTION**

15 (Interference with Constitutional Rights in Violation of Cal. Civ. Code § 52.1)

16 86. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs,
17 as though fully set forth herein.

18 87. Crispin Rodriguez interfered with Plaintiff's constitutional right entitling him to
19 equal protection.

20 88. Defendant Tesla adopted the conduct, through its officers, directors, managing
21 agents, or supervisory employees. It further ratified the conduct by failing to take appropriate
22 prompt remedial action.

23 89. A substantial motivating reason for Defendant's conduct was Plaintiff's race.

24 90. Defendant interfered with Plaintiff's right to be free from discrimination or
25 violence on the basis of race as set forth above. Plaintiff reasonably believed that because
26 Plaintiff exercised his right to be free from racial harassment, Rodriguez threatened to commit
27 violence against him and/or his property and Defendant Tesla permitted working conditions that
28 denied Plaintiff his constitutional right entitling him to equal protection.

91. Defendant's conduct caused Plaintiff to suffer, and continue to suffer damages as set forth above.

92. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages set forth herein.

93. By reason of the conduct of Defendant and each of them as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

94. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

EIGHTH CAUSE OF ACTION

(Failure to Accommodate)
Cal. Govt. Code 12940, *et seq.*

95. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

96. Defendant had an affirmative duty to make a reasonable accommodation for Plaintiff's disability. The duty arises even if Plaintiff did not request an accommodation. Defendant failed to accommodate Plaintiff's disability.

97. At all relevant times, Defendant had actual and constructive knowledge of the failure to accommodate described and alleged herein, and condoned, ratified and participated in the failure to accommodate Plaintiff's disability.

98. Defendant's conduct caused Plaintiff to suffer, and continue to suffer damages as set forth above.

99. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages set forth herein.

100. By reason of the conduct of Defendant, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

101. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

NINTH CAUSE OF ACTION

(Failure to Engage in the Interactive Process)

Cal. Govt. Code 12940, *et seq.*

102. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

103. Defendant was required to engage in a timely, good faith interactive process to attempt to accommodate Plaintiff. Defendant failed to engage in a timely good faith interactive process with Plaintiff and did not make any attempt to accommodate his disability.

104. At all relevant times, Defendant had actual and constructive knowledge of the failure to engage in the interactive process described and alleged herein, and condoned, ratified and participated in the failure to engage in the interactive process.

105. Defendant's conduct caused Plaintiff to suffer, and continue to suffer damages as set forth above.

106. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages set forth herein.

107. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

(Assault)

110. Plaintiff is informed and believes and thereon alleges that Defendant, by and through its principals, agents and employees, conducted itself unlawfully in violation of public policy and applicable law as described above with conscious disregard of the result or outcome of such conduct.

112. At all relevant times, Defendant had actual or constructive knowledge of the conduct described herein, and condoned, ratified and participated in such acts.

114. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set forth herein.

(Battery in Violation of Cal. Civ. Code § 1708.5)

116. Plaintiff is informed and believes and thereon alleges that Defendant, by and through their principals, agents and employees, conducted themselves unlawfully in violation of

1 public policy and applicable law as described above with conscious disregard of the result or
2 outcome of such conduct.

3 117. Rodriguez touched Plaintiff's person with the intent to cause a harmful or
4 offensive contact with an intimate part of Plaintiff. Plaintiff did not consent to the contact.
5 Plaintiff was harmed or offended by Rodriguez's conduct. Rodriguez's conduct was committed
6 during the course of and scope of employment.

7 118. At all relevant times, Defendant had actual or constructive knowledge of the
8 conduct described herein, and condoned, ratified and participated in such acts.

9 119. As a result of Defendant's actions, Plaintiff was harmed as set forth above.

10 120. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set
11 forth herein.

12 **REQUEST FOR RELIEF**

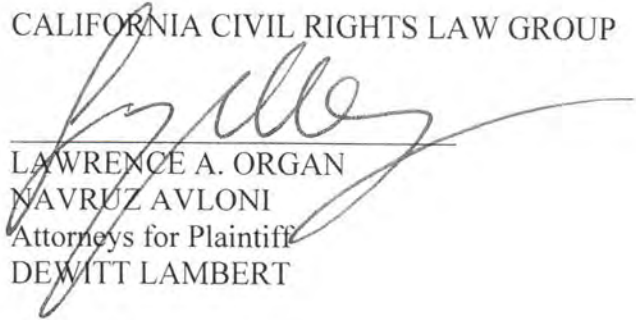
13 WHEREFORE, Plaintiff requests judgment against Defendant Tesla as follows:

- 14 1. General damages according to proof, however, no less than the jurisdictional limit
15 of this court;
- 16 2. Special damages in amounts according to proof, together with prejudgment
17 interest;
- 18 3. Exemplary and punitive damages in amounts according to proof;
- 19 4. Civil penalties pursuant to Civil Code section 51.7;
- 20 5. Attorneys' fees and costs pursuant to Government Code section 12965, Civil
21 Code sections 52(b)(3) and 52.1(h), and any other applicable statute;
- 22 6. Interest as provided by law;
- 23 7. Costs of suit incurred herein;
- 24 8. Injunctive relief to require Defendant Tesla to better train its staff on race and sex
25 harassment, discrimination, retaliation, and its duty to accommodate and engage in a good faith
26 interactive process as well as conduct more thorough investigations; and
27
28

9. For such other and further relief as the Court deems just and proper.

Dated: March 27, 2017

CALIFORNIA CIVIL RIGHTS LAW GROUP



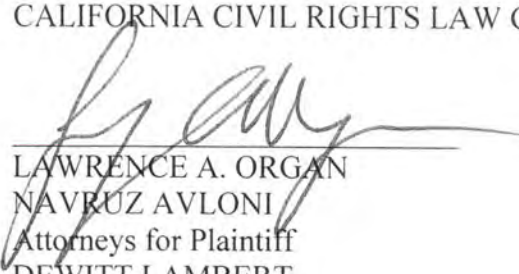
LAWRENCE A. ORGAN
NAVRUZ AVLONI
Attorneys for Plaintiff
DEWITT LAMBERT

DEMAND FOR JURY TRIAL

PLAINTIFF hereby demands a jury trial on all issues.

Dated: March 27, 2017

CALIFORNIA CIVIL RIGHTS LAW GROUP



LAWRENCE A. ORGAN
NAVRUZ AVLONI
Attorneys for Plaintiff
DEWITT LAMBERT

Exhibit

17

REC-010

WV000397
CONFIDENTIAL

Exhibit

18

Helene A. Simvoulakis-Panos

From: Rovilla Wetle <rwetle@tesla.com>
Sent: Wednesday, May 2, 2018 11:44 AM
To: Rovilla Wetle
Subject: FW: Tiara Flynn

From: Soren Baird
Sent: Wednesday, May 10, 2017 10:27 AM
To: Rovilla Wetle <rwetle@tesla.com>
Subject: RE: Tiara Flynn

Thank you Rovilla!

Best Regards,

Soren Baird | West Valley Staffing Group | On-Site Program Coordinator
P: 408.505.5342
E: sbaird@tesla.com

From: Rovilla Wetle
Sent: Wednesday, May 10, 2017 9:36 AM
To: Freddy Rivera <frivera@tesla.com>; David Zweig <dzweig@tesla.com>; Soren Baird <sbaird@tesla.com>; Sandeep Dharmi <sdhami@tesla.com>; Liza Lipson <llipson@tesla.com>; westvalleystaffing <westvalleystaffing@tesla.com>
Cc: Ruben Baca <rbaca@tesla.com>; Michael Lozano <mlozano@tesla.com>; Gabrielle Montoya <gmontaya@tesla.com>; ShTawney McIntosh <smcintosh@tesla.com>; Mario De La Rosa <mdelarosa@tesla.com>
Subject: RE: Tiara Flynn

Hi Everyone,

Closing the loop on Jabarre Richard. After completing our investigation, it's our recommendation to keep him on assignment. Please let me know if you have any questions. Here's his last statement:

AB connected with Jabarre via telephone.
Requested Jabarre's statement in regards to the incident with Tiara.

Jabarre did not rememeber the date the incident happened. Towards the end of the day, Tiara's jacket came up missing, Jabarre and Jimmy were talking when Jimmy made a joke saying "Jabarre's girlfriend is wearing it on snapchat (joking). Jabarre said "yes, she's wearing it, again joking. Jimmy noticed that Tiara had left her backpack on the floor and asked her to pick it up and put it somewhere where it was not in the way. At that moment Tiara picked up her backpack and started to walk away and looked at Jabarre and said "Go back to the Jungle nigga". Jabarre did not hear her say the entire thing but heard her say something about a jungle. Jimmy then asked Jabarre if he heard what Tiara just said. Jabarre said no, what did she say? And Jimmy said she said "Go back to the jungle nigga". Jabarre did not say anything to her, instead he went to Freddy Rivera, supervisor and told him what just happened. Jabarre stated that Freddy asked him not to say anything to Tiara, keep it mutual and stated he would go and talk to Jimmy about what he witnessed. I asked Jabarre if there has been any other interactions or altercations between him and Tiara and he said no.

Once Tiara was terminated, Jabarre started getting text messages from people saying that Tiara was spreading a rumor saying that he had grabbed her butt. The rumor started after she was terminated. Jabarre stated "I never touched her ass, there has been multiple people who have done that but not me".

I asked Jabarre how he know multiple people have touched her butt and he said that Tiara talked about it all the time with other girls openly and talked about how someone previous was fired because of it.

Jabarre's closing statement:

I have a bigger job now, bigger responsibility.

I wouldn't jeopardize my job over that.

I'm responsible, currently I am out because I contracted pink eye at work.

Thanks,
Rovilla

From: Rovilla Wetle

Sent: Monday, May 01, 2017 10:00 AM

To: Freddy Rivera <frivera@tesla.com>; David Zweig <dzweig@tesla.com>; Soren Baird <sbaird@tesla.com>; Sandeep Dhami <sdhami@tesla.com>; Liza Lipson <llipson@tesla.com>; westvalleystaffing <westvalleystaffing@tesla.com>

Cc: Ruben Baca <rbaca@tesla.com>; Michael Lozano <mlozano@tesla.com>; Gabrielle Montoya <gmontaya@tesla.com>; ShTawney McIntosh <smcintosh@tesla.com>; Mario De La Rosa <mdelarosa@tesla.com>

Subject: RE: Tiara Flynn

Hi Everyone,

Sorry for the delay. The WVSG HR department is completing the interviews to sort out multiple discrepancies in statements. We hope to have closure soon.

Thanks,
Rovilla

From: Freddy Rivera

Sent: Monday, May 01, 2017 9:57 AM

To: Rovilla Wetle <rwetle@tesla.com>; David Zweig <dzweig@tesla.com>; Soren Baird <sbaird@tesla.com>; Sandeep Dhami <sdhami@tesla.com>; Liza Lipson <llipson@tesla.com>; westvalleystaffing <westvalleystaffing@tesla.com>

Cc: Ruben Baca <rbaca@tesla.com>; Michael Lozano <mlozano@tesla.com>; Gabrielle Montoya <gmontaya@tesla.com>; ShTawney McIntosh <smcintosh@tesla.com>; Mario De La Rosa <mdelarosa@tesla.com>

Subject: RE: Tiara Flynn

Has Jabarre Richard been interviewed yet? I haven't heard anything regarding this case and it's been 2 weeks since the last email regarding this issue. I need this closed out ASAP so we can move forward.

From: Rovilla Wetle

Sent: Monday, April 17, 2017 2:40 PM

To: Freddy Rivera <frivera@tesla.com>; David Zweig <dzweig@tesla.com>; Soren Baird <sbaird@tesla.com>; Sandeep Dhami <sdhami@tesla.com>; Liza Lipson <llipson@tesla.com>; westvalleystaffing <westvalleystaffing@tesla.com>

Cc: Ruben Baca <rbaca@tesla.com>; Michael Lozano <mlozano@tesla.com>; Gabrielle Montoya <gmontaya@tesla.com>

Subject: RE: Tiara Flynn

Hi Everyone,

David and I met this morning and Tiara's assignment has been ended. Her badge has been turned in to Security.

Thanks,
Rovilla

From: Freddy Rivera

Sent: Monday, April 17, 2017 8:51 AM

To: David Zweig <dzweig@tesla.com>; Soren Baird <sbaird@tesla.com>; Freddy Rivera <frivera@tesla.com>; Sandeep Dhami <sdhami@tesla.com>; Liza Lipson <llipson@tesla.com>; westvalleystaffing <westvalleystaffing@tesla.com>

Cc: Ruben Baca <rbaca@tesla.com>; Michael Lozano <mlozano@tesla.com>; Gabrielle Montoya <gmontaya@tesla.com>

Subject: RE: Tiara Flynn

Team,

Tiara showed up to work this morning. Is there going to be any other follow up with her from the West Valley team? I'm in agreement with David on this issue but we cannot wait to follow up. If we are waiting on an interview with Jabarre please take care of that this morning.

Thank you

Sent via the Samsung Galaxy S® 6, an AT&T 4G LTE smartphone

----- Original message -----

From: David Zweig <dzweig@tesla.com>

Date: 4/15/17 12:46 PM (GMT-08:00)

To: Soren Baird <sbaird@tesla.com>, Freddy Rivera <frivera@tesla.com>, Sandeep Dhami <sdhami@tesla.com>, Liza Lipson <llipson@tesla.com>, westvalleystaffing <westvalleystaffing@tesla.com>

Cc: Ruben Baca <rbaca@tesla.com>, Michael Lozano <mlozano@tesla.com>, Gabrielle Montoya <gmontaya@tesla.com>

Subject: RE: Tiara Flynn

Adding Liza.

Hi Soren:

Please speak with Jabarre to find out the context of what happened, and what Tiara said to him. In speaking with Freddy, he said this started because Tiara misplaced her jacket and Jabarri teased her about this, which resulted in her responding the way she did.

Derogatory and racially charged comments toward co-workers are unacceptable at Tesla and will not be tolerated. If Tiara made the comments below, please move forward with ending her assignment. Additionally, Tiara has only been at Tesla for about a month, but she has already had multiple performance and attendance issues.

Please also speak with Jabarre about his need for respect and professionalism in the workplace, and please make sure he understands that even playful teasing of another co-worker is not acceptable. If you would like to speak with me to discuss this further, I can be available on Monday.

Thank you,
David Zweig | HR | Human Resources
45500 Fremont Boulevard | Fremont, CA 94538
c 510.203.5751 | dzweig@tesla.com



The content of this message is the proprietary and confidential property of Tesla Motors, and should be treated as such. If you are not the intended recipient and have received this message in error, please delete this message from your computer system and notify me immediately by reply e-mail. Any unauthorized use or distribution of the content of this message is prohibited. Thank you.

Please consider the environment before printing this email.

From: Soren Baird
Sent: Saturday, April 15, 2017 12:09 PM
To: Freddy Rivera <frivera@tesla.com>; Sandeep Dhami <sdhami@tesla.com>
Cc: Ruben Baca <rbaca@tesla.com>; Michael Lozano <mlozano@tesla.com>; Gabrielle Montoya <gmontaya@tesla.com>; David Zweig <dzweig@tesla.com>
Subject: RE: Tiara Flynn

Hello Freddy,

Thank you for providing all of these details. I just got off the phone with Tiara Flynn. I gave her a final warning and reiterated all of expectations of her assignment, both in performance and professionalism. She said that she understood.

I left a voicemail with Jabarre, but have not had the chance to speak with him yet. I will follow up once I've been able to connect with him.

Best Regards,

Soren Baird | West Valley Staffing Group | On-Site Program Coordinator
P: 408.505.5342
E: sbaird@tesla.com

From: Freddy Rivera
Sent: Friday, April 14, 2017 9:24 PM
To: Sandeep Dhami <sdhami@tesla.com>; Soren Baird <sbaird@tesla.com>
Cc: Ruben Baca <rbaca@tesla.com>; Michael Lozano <mlozano@tesla.com>; Gabrielle Montoya <gmontaya@tesla.com>; David Zweig <dzweig@tesla.com>
Subject: RE: Tiara Flynn

Hi Soren,

Just want to make you aware of a situation I dealt with this afternoon involving two West Valley contractors (Tiara Flynn and Jabarre Richard).

I was approached by one of our Tesla Manufacturing Technicians (Jimmy Ramirez) and was told that Tiara made a comment towards Jabarre as she walked away from him. According to Jimmy he heard her say "go back to the jungle n#\$#\$r".

After multiple 1:1 interviews with Jimmy, Jabarre, and Tiara she did admit to me that she said "go back to the jungle ninga."

Urban dictionary definition for ninga- the combination of the words Nigga and Ninja.

I explained to her that even referring to someone using a slang word with a similar meaning is totally unacceptable.

We had a long talk and I made it very clear that I would be reaching out to her agency for follow up and set my clear expectations of her.

I also gave Jabarre a warning for not focusing on the task at hand. I explained to him how critical our schedule is and these types of side bar conversations only make him and those around him less focused and this can result in poor quality and lost production.

I am requesting follow up from West Valley staffing with both individuals. The team in general is starting to come together very nicely but these types of distractions are unnecessary and will not be tolerated by me or my team.

I will leave Tiara's fate in your hands. You have already received feedback from Sandeep Dhami regarding performance concerns he has had so this situation does not help her.

Please let us know when you speak to both individuals and let us know how you would like to proceed.

Thank you for your time and support

Sent via the Samsung Galaxy S® 6, an AT&T 4G LTE smartphone

----- Original message -----

From: Sandeep Dhami <sdhami@tesla.com>
Date: 4/14/17 8:56 PM (GMT-08:00)
To: Freddy Rivera <frivera@tesla.com>
Subject: Fwd: Tiara Flynn

Sent from my iPhone

Begin forwarded message:

From: Soren Baird <sbaird@tesla.com>
Date: April 14, 2017 at 2:16:36 PM PDT
To: Sandeep Dhami <sdhami@tesla.com>, westvalleystaffing <westvalleystaffing@tesla.com>
Cc: Ruben Baca <rbaca@tesla.com>, Gabrielle Montoya <gmontaya@tesla.com>
Subject: RE: Tiara Flynn

Hello Sandeep,

Thank you for your email. We will reach out and counsel Tiara on her performance and let her know that Tesla needs to see immediate and sustained improvement.

Can you please advise what her missing punch on Tuesday afternoon should be?

Best Regards,

Soren Baird | West Valley Staffing Group | On-Site Program Coordinator

P: 408.505.5342

E: sbaird@tesla.com

From: Sandeep Dhami

Sent: Friday, April 14, 2017 8:19 AM

To: westvalleystaffing <westvalleystaffing@tesla.com>

Cc: Ruben Baca <rbaca@tesla.com>; Gabrielle Montoya <gmontoya@tesla.com>

Subject: RE: Tiara Flynn

Team,

Tiara was late today 2 min also she has a missing punch on 4/11/2017 at the end of the shift.

Flynn, Tiara 1 of 1 C17693

✓
Approve
Timecard

		Date	Schedule	In	Transfer
+	X	Mon 4/10	6:30AM-3:05PM	6:25AM	
+	X	Tue 4/11	6:30AM-3:05PM	6:25AM	
+		Wed 4/12	6:30AM-3:05PM		
+	X	Thu 4/13	6:30AM-3:05PM	6:25AM	
+	X	Fri 4/14	6:30AM-3:05PM	6:32AM	

From: Sandeep Dhami

Sent: Thursday, April 13, 2017 5:56 PM

To: westvalleystaffing <westvalleystaffing@tesla.com>

Cc: Ruben Baca <rbaca@tesla.com>; Gabrielle Montoya <gmontoya@tesla.com>; David Zweig <dzwieg@tesla.com>; Freddy Rivera <frivera@tesla.com>

Subject: Tiara Flynn

Team,

We have been seeing a few issues with Tiara Flynn. At first she was on the QC team and the tech of the area would tell me that she would go missing without notifying an tech or process owner and they wouldn't know her whereabouts. She and another associate also had a conflict on the same team and she was asked to try another area (fasteners). On the fasteners team, the tech would tell me the same thing as she would go missing without no one knowing, the tech also stated she would be on her phone constantly as she shouldn't be on the phone during production. Tech also stated that she would tell people that the tech had sent her to do a certain task in which the tech never assigned the task so this is where she would just walk away and use this. She was later moved to another area (UBM). On 4/13/2017 we had

announced to everyone at SOP that the Tech's or the Process Owners (PO's) need to know if you're leaving the area for anything. On 4/13/2017 she was on her phone 3 times reported by the tech also the same day she was nowhere to be found from 4:45pm – 5:13pm as the tech and I waited in the area. There was a break from 4:15pm to 4:30pm, she had stated she was in the bathroom after break at 4:45pm – 5:13pm. Just a few things I wanted you all to be aware about, we need to see immediate improvement especially her being on the phone during work and walking away from the process without notifying anyone. This is her 3rd team since she has started here. Let me know if you require any additional information.

Thanks,

Sandeep Dhami | Production Supervisor, Body Center
45500 Fremont Boulevard | Fremont, CA 94538
c 510.449.1974 | e sdhami@teslamotors.com



Exhibit 19

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

--o0o--

DEMETRIC DI-AZ, OWEN DIAZ, and)
LAMAR PATTERSON,)

Plaintiffs,)

vs.)

Case No.
3:17-cv-06748-WHO

TESLA, INC. dba TESLA MOTORS,)
INC.; CITISTAFF SOLUTIONS,)
INC.; WEST VALLEY STAFFING)
GROUP; CHARTWELL STAFFING)
SERVICES, INC.; and DOES 1-50,)
inclusive,)

Defendants.)

DEPOSITION OF ROVILLA WETLE

Tuesday, June 5, 2018

Reported by:

KIM Y. ROTHERHAM, CSR No. 7397

ROVILLA WETLE

June 5, 2018

1 BE IT REMEMBERED THAT, pursuant to Notice and
2 Subpoena, on Tuesday, June 5, 2018, commencing at the
3 hour of 10:11 a.m., thereof, at CALIFORNIA CIVIL RIGHTS
4 LAW GROUP, 332 San Anselmo Avenue, San Anselmo,
5 California 94960, before me, KIM Y. ROTHERHAM, CSR No.
6 7397, State of California, personally appeared:

7
8 ROVILLA WETLE,
9 called as a witness by the Plaintiffs; who, having been
10 duly sworn by me, was thereupon examined and testified as
11 is hereinafter set forth.

12 ---o0o---

13 A P P E A R A N C E S

14 For the Plaintiffs, DEMETRIC DI-AZ and OWEN DIAZ:

15 CALIFORNIA CIVIL RIGHTS LAW GROUP
16 332 San Anselmo Avenue
17 San Anselmo, California 94960
18 415-453-4740
415-785-7352 Fax
navruz@civilrightsca.com

19 By: NAVRUZ AVLONI, ESQ.
LAWRENCE A. ORGAN, ESQ.

20
21 For the Defendant, WEST VALLEY STAFFING GROUP:

22 PAHL & McCAY, PLC
23 225 West Santa Clara Street, Suite 1500
24 San Jose, California 95113-1752
408-286-5100
408-286-5722 Fax
fhorton@pahl-mccay.com

25 By: FENN C. HORTON III, ESQ.

ROVILLA WETLE
June 5, 2018

1 A P P E A R A N C E S -- (Cont'd)

2

3 For the Defendant, TESLA, INC. dba TESLA MOTORS, INC. and
4 CITISTAFF SOLUTIONS, INC.:

5

CONSTANGY, BROOKS, SMITH & PROPHETE LLP

6

2029 Century Park East, Suite 1100

Los Angeles, California 90067

7

310-909-7775

424-465-6630 Fax

8

arutschman@constangy.com

9

By: AARON M. RUTSCHMAN, ESQ.

10

Also present:

11

TERESA KOSSAYIAN, Chief Financial Officer, West
Valley Staffing Group

12

13

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ROVILLA WETLE

June 5, 2018

1 **A. I meant yes.**

2 Q. Okay. Have you, during your time at West
3 Valley Staffing Group, ever conducted an investigation
4 into any employee complaints?

5 **A. Yes.**

6 Q. And how many investigations have you conducted
7 into employee complaints?

8 **A. I don't know.**

9 Q. More than 10?

10 **A. Yes.**

11 Q. More than 20?

12 **A. Maybe.**

13 Q. More than 30?

14 **A. I don't know. I guess explain "complaints"**
15 **because they can be really small, in my mind.**

16 Q. Just -- I'm leaving it, the first question,
17 broad to any complaints made by an employee or raised by
18 an employee.

19 **A. Oh. Any complaints at all raised by an**
20 **employee? Yes, I would say more than 30.**

21 Q. Okay. Now, did you -- have you ever
22 investigated complaints that were related to, let's say,
23 race harassment?

24 **A. No.**

25 Q. Okay. Did you ever investigate any complaints

1 related to race discrimination?

2 **A. No.**

3 Q. Did you ever investigate any complaints related
4 to retaliation?

5 **A. No.**

6 Q. Did you ever investigate any complaints related
7 to wrongful termination?

8 MR. HORTON: Objection; vague as to "wrongful
9 termination," calls for a legal conclusion.

10 THE WITNESS: I'm trying to think if I did or
11 not. I can't think of a time.

12 BY MS. AVLONI:

13 Q. Did you ever investigate any complaints related
14 to any sort of harassment complaint? That could have
15 been, let's say, sex, gender, disability.

16 **A. You're asking me if I -- if I did that? No.**

17 Q. Okay. Could you -- could you list the type of
18 complaints that you do recall investigating during your
19 time at West Valley Staffing Group?

20 **A. There are a lot of payroll complaints or**
21 **complaints that the shift somebody was on wasn't one they**
22 **wanted to be on. What other complaints? They wanted to**
23 **move up into a different position. Disagreed with the**
24 **reasons we gave them on why their assignment was ending.**
25 **That's what I'm thinking of right now.**

ROVILLA WETLE

June 5, 2018

1 REPORTER'S CERTIFICATE

2 STATE OF CALIFORNIA)
) ss.
3 COUNTY OF SONOMA)

4 I, KIM Y. ROTHERHAM, C.S.R. #7397, hereby certify
5 that the witness in the foregoing deposition, named to
6 wit: ROVILLA WETLE, was by me duly sworn to tell the
7 truth, the whole truth, and nothing but the truth in the
8 within-entitled cause;

9 That said deposition was taken in shorthand by me, a
10 certified shorthand reporter, and a disinterested person,
11 at the time and place therein stated; and that the
12 testimony of the said witness was thereafter transcribed
13 under my direction and supervision; that the foregoing
14 transcript constitutes a full, complete, and accurate
15 transcription of my shorthand notes taken of the oral
16 proceedings.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties to the
19 said deposition, nor am I in any way interested in the
20 outcome of this cause, and that I am not related to any
21 of the parties thereto.

22 IN WITNESS WHEREOF, I have hereunto set my hand
23 this 15th day of June, 2018.

24 KIM Y. ROTHERHAM
25 CERTIFIED SHORTHAND REPORTER

Exhibit

20

Message

From: Arturo Esquer [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ARTURO MAYORALF37]
Sent: 4/29/2016 4:21:01 PM
To: Erin Marconi [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Emarconi]; Erin Garcia [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Erin Laud0a]
CC: Josh Hedges [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Josh Hedgesf66]; Vannha Pham [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Vannha Phuoc Phamb32]; Charles Shin [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Charles Shinaca]; Jose Gomez [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JGomez]; Alfonso Franco [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Afranco]
Subject: FW: unacceptable
Attachments: 20160429_085145.jpg

Hi Erin and Erin,

See enclosed (extremely offensive car name), unacceptable and concerning. Al, Jose are trying to investigate, they might need some support.

Vannha,

Any way we can figure out when this happened? Anything that can help this investigation you can think of?

Thank you

Arturo

From: Charles Shin
Sent: Friday, April 29, 2016 9:17 AM
To: Jose Gomez <JGomez@tesla.com>; Victor Contreras <vcontreras@tesla.com>; Assembly Supervisors <AssemblySupervisors@tesla.com>; assemblyleads <assemblyleads@tesla.com>; Alfonso Franco <afranco@tesla.com>; Saan Saepanh <ssaepanh@tesla.com>; Trey Farmer III <jfarmer@tesla.com>
Cc: Arturo Esquer <aesquer@tesla.com>
Subject: RE: unacceptable

Al/jose

Do an investigation please

- 1) Where in process can they add a message (I am assuming either IP or powertrain?)
- 2) When did that car go through that area

From: Jose Gomez
Sent: Friday, April 29, 2016 9:16 AM
To: Victor Contreras <vcontreras@tesla.com>; Assembly Supervisors <AssemblySupervisors@tesla.com>; assemblyleads <assemblyleads@tesla.com>; Alfonso Franco <afranco@tesla.com>; Charles Shin <cshin@tesla.com>; Saan Saepanh <ssaepanh@tesla.com>; Trey Farmer III <jfarmer@tesla.com>
Cc: Arturo Esquer <aesquer@tesla.com>
Subject: RE: unacceptable

Adding Arturo

From: Victor Contreras

Sent: Friday, April 29, 2016 9:08 AM

To: Assembly Supervisors <AssemblySupervisors@tesla.com>; assemblyleads <assemblyleads@tesla.com>; Alfonso Franco <afranco@tesla.com>; Jose Gomez <JGomez@tesla.com>; Charles Shin <cshin@tesla.com>; Saan Saepanh <ssaepanh@tesla.com>; Trey Farmer III <jfarmer@tesla.com>

Subject: unacceptable

team,

today at final line 200 while installing our monacam, our associate noticed the Instrument Cluster in this connection. please review picture attached. some associates were offended when this was discovered. this is unacceptable.

Sent from my Verizon, Samsung Galaxy smartphone

CONFIDENTIAL



TESLA-0000918

Exhibit

21

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and)
LAMAR PATTERSON,)
)
Plaintiffs,)
) Case No.
vs.) 3:17-cv-06748-WHO
)
TESLA, INC. dba TESLA MOTORS,) Pages 1 - 142
INC.; CITISTAFF SOLUTIONS, INC.;)
WEST VALLEY STAFFING GROUP;)
CHARTWELL STAFFING SERVICES, INC.;)
and DOES 1-50, inclusive,)
)
Defendants.)
_____)

VIDEO DEPOSITION OF ERIN MARCONI

MONDAY, OCTOBER 21, 2019

11:39 A.M.

REPORTED BY: LAURA J. MELLINI

CSR NO. 8181, RPR, CCRR

NDS JOB NO.: 220525

1 APPEARANCES OF COUNSEL:

2
3 FOR PLAINTIFFS DEMETRIC DI-AZ AND OWEN DIAZ:

4
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6 BY: LAWRENCE A. ORGAN, ESQ.

7 332 SAN ANSELMO AVENUE

8 SAN ANSELMO, CALIFORNIA 94960

9 415.453.4740

10 larry@civilrightsca.com

11
12 FOR DEFENDANTS TESLA, INC. dba TESLA MOTORS, INC.:

13
14 SHEPPARD MULLIN RICHTER & HAMPTON LLP

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12 skumagai@lkclaw.com

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14 FOR DEFENDANT NEXTSOURCE, INC.:

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18 BY: VINCENT ADAMS, ESQ.

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20 SUITE 2050

21 SAN FRANCISCO, CALIFORNIA 94111-3712

22 415.490.9000

23 vadams@fisherphillips.com

1 (INDEX CONTINUED)

2

3 ALSO PRESENT:

4

5 GREG CLUBB, VIDEO OPERATOR

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1 Q You do not recall ever having investi- -- 12:17

2 strike that. 12:17

3 Do you recall -- strike all that. 12:17

4 Do you recall ever investigating a claim where 12:17

5 it was alleged that the n-word was used? 12:17

6 A Not specifically. 12:17

7 Q Do you know of any of your colleagues ever 12:18

8 investigating a situation where the n-word was alleged 12:18

9 to have been used? 12:18

10 A Know of? 12:18

11 Q Yes. 12:18

12 A Yes. 12:18

13 Q Who was it that you recall of your colleagues 12:18

14 who investigated a claim of use of the n-word? 12:18

15 A I believe Paul James. 12:18

16 Q Okay. Was Paul James also an HR partner like 12:18

17 you? 12:18

18 A Correct. 12:18

19 Q Did you discuss the n-word investigation with 12:18

20 Paul James that he did? 12:19

21 A No. He worked night shift, if I recall. So 12:19

22 if it was something that I might get asked about by a 12:19

23 group that I supported, I might get a heads-up if he was 12:19

24 looking into something. 12:19

25 And, actually, to correct what I said earlier, 12:19

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF LOS ANGELES)
4

5 I, LAURA J. MELLINI, Certified Shorthand
6 Reporter, Certificate No. 8181, for the State of
7 California, hereby certify:

8 I am the deposition officer that
9 stenographically recorded the testimony in the foregoing
10 deposition;

11 Prior to being examined the deponent was first
12 duly sworn by me;

13 The foregoing transcript is a true record of
14 the testimony given;

15 Before completion of the deposition, review of
16 the transcript [X] was [] was not requested. If
17 requested, any changes made by the deponent (and
18 provided to the reporter) during the period allowed are
19 appended hereto.

20
21 Dated _____.

22
23 _____
24 LAURA J. MELLINI

25 CSR NO. 8181, RPR, CCRR

Exhibit

22

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3 333 South Hope Street, 43rd Floor
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rswafford-harris@sheppardmullin.com

10
11 Attorneys for Defendants,
TESLA, INC. dba TESLA MOTORS, INC.
12
13

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16

17 DEMETRIC DI-AZ, OWEN DIAZ, AND
LAMAR PATTERSON,

18 Plaintiffs,
19

20 v.

21 TESLA, INC. DBA TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
22 CHARTWELL STAFFING SERVICES,
INC.; and DOES 1-50, inclusive,,
23

24 Defendants.
25
26
27
28

Case No. 3:17-cv-06748-WHO

CERTIFICATE OF SERVICE

Complaint filed: October 16, 2017
Amended Complaint Filed: December 26, 2018
Trial Date: March 2, 2020

CERTIFICATE OF SERVICE

Demetric Di-Az, et al. v. Tesla, Inc., et al.
 USDC, Northern District of CA, Case No. 3:17-cv-06748-WHO

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is Four Embarcadero Center, 17th Floor, San Francisco, CA 94111-4109.

On October 11, 2019, I served true copies of the following document(s) described as

**DEFENDANT TESLA, INC.'S DOCUMENT PRODUCTION BATES RANGE-STAMPED:
 TESLA-0000905-TESLA-0001013**

on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred.

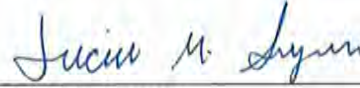
☐ **BY FAX TRANSMISSION:** I faxed a copy of the document(s) to the persons at the fax numbers listed in the Service List. The telephone number of the sending facsimile machine was 415.434.3947. The transmission was reported as complete and without error. No error was reported by the fax machine that I used. A transmission report was properly issued by the sending fax machine.

☐ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address lsegura@sheppardmullin.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

☐ **BY PERSONAL SERVICE:** I personally delivered the document(s) to the person at the addresses listed in the Service List. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 

4 Lucia M. Segura
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SERVICE LIST

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Navruz Avloni, Esq.

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mhayati@grsm.com
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Exhibit

23

Message

From: Andres Donet [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ANDRES L DONETD49]
Sent: 5/21/2016 7:59:25 PM
To: Liza Lipson [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Liza Lipsonb7a]; Gregory Slettvet [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Gsllettvet]
CC: Andre' Lalljie [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=User8d52a49b]; Victor Quintero [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Victor Quintero3a3]; Edward Romero [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Edward Romeroe38]; James Moffitt [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=James Moffitt94f]
Subject: FW: Racism writing the bathroom
Attachments: 20160521_105018_resized.jpg

Graffiti found and cleaned up. Men's RR K-26.

Regards,

Andres Donet | Facilities Contract Supervisor | Facilities
 45500 Fremont Blvd. | Fremont, CA 94538
 c: 650.730.0103 | adonet@teslamotors.com



From: Roel Kliatchko
Sent: Saturday, May 21, 2016 11:13 AM
To: Kevin Colvin <kcolvin@tesla.com>; Jonathan Baldoza <jbaldoza@tesla.com>; Rob Lewis <kelewis@tesla.com>; Robin Aylsworth <raylsworth@tesla.com>
Cc: buildingservices@teslamotors.com <buildingservices@tesla.com>; Matt Pennington <mpennington@tesla.com>
Subject: RE: Racism writing the the bathroom

Adding Robin A.

Kevin,

Can you provide nearest column # and what floor?

Building services can we send a Team member for clean up?

Best Regards,

Roel Kliatchko (SDI) Supervisor
 | 45500 Fremont Blvd. Fremont, CA 94538 |
 | Cell: (510) 203-6146 | rkliatchko@teslamotors.com |

From: Kevin Colvin
Sent: Saturday, May 21, 2016 11:02 AM
To: Roel Kliatchko; Jonathan Baldoza; Rob Lewis
Subject: Racism writing the the bathroom

This is in the bathroom located by the elevator while walking upstairs

The writing says "All niggers must die"

Kevin Colvin
PWT SDU Inverter
Production Associate

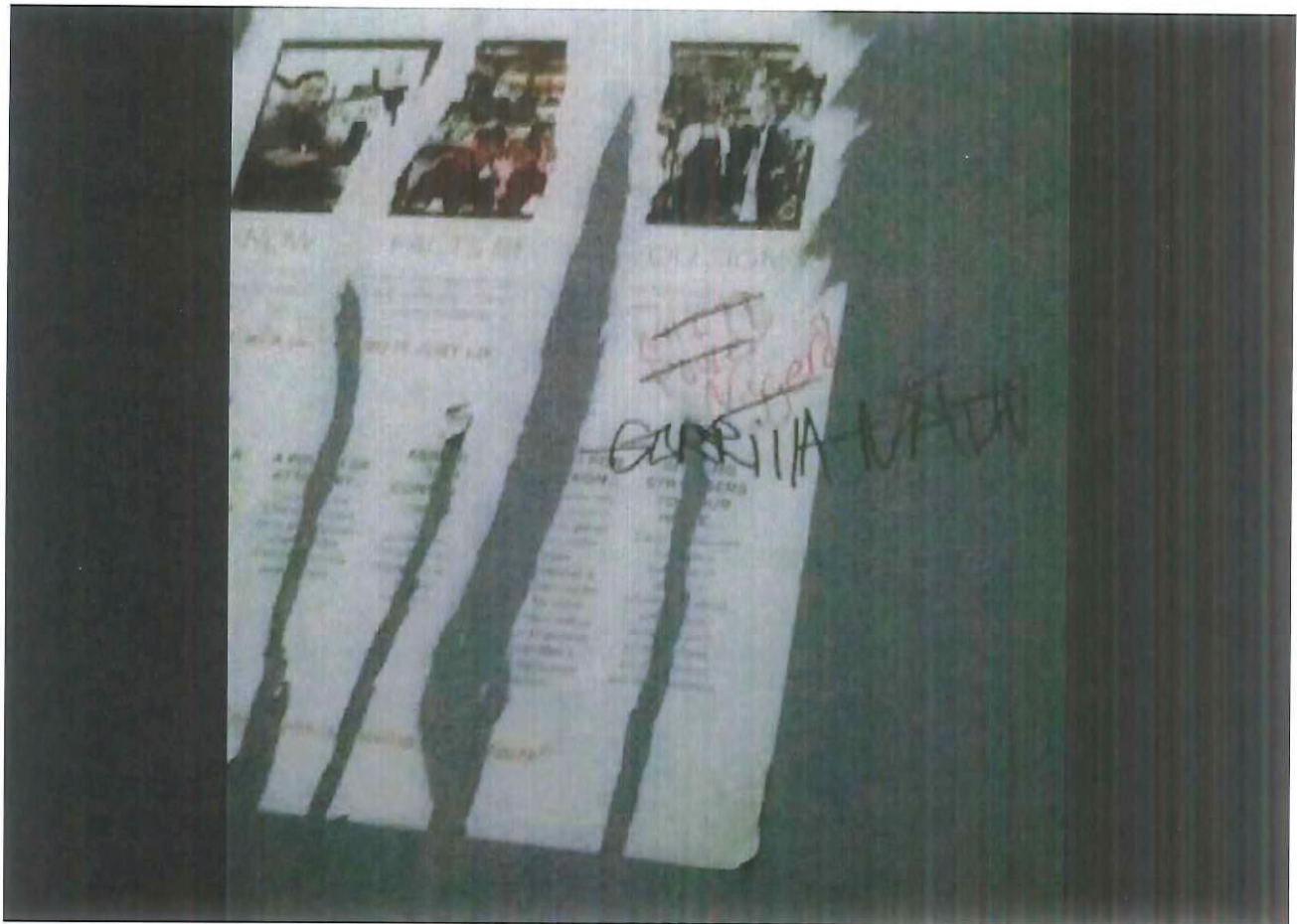
The world
will END
- 600

 All Niggers
must die

TRUCK
CRACKERS
WE all will die
one day

Exhibit

24



Exhibit

25

CALIFORNIA CIVIL RIGHTS LAW GROUP

Lawrence Organ (SBN 175503)

Navruz Avloni (SBN 279556)

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San Anselmo, CA 94960

Tel. (415) 453-4740

Fax (415) 785-7352

Email: larry@civilrightsca.com

navruz@civilrightsca.com

BRYAN SCHWARTZ LAW

Bryan Schwartz (SBN 209903)

Logan Starr (SBN 305598)

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Email: bryan@bryanschwarzlaw.com

logan@bryanschwarzlaw.com

*Attorneys for Plaintiff Marcus Vaughn
and the Putative Class*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED JURISDICTION

MARCUS VAUGHN, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

TESLA, INC. doing business in California as
TESLA MOTORS, INC.; and DOES 1
THROUGH 50, INCLUSIVE,

Defendants.

Case No. RG17882082

**DECLARATION OF NATHAN JOHN
FRAIM**

1 I, Nathan John Fraim, declare as follows:

2

3 1. I am over the age of 18. If called upon to testify, I could and would testify competently as
4 to the facts set forth in this declaration.

5 2. I am a Caucasian male. I was employed by Tesla, Inc. ("Tesla") at the Fremont, California
6 Tesla Factory through the Staffing Agency Volt Workforce Solutions from January 30, 2017,
7 until July 31, 2017, when I quit voluntarily.

8 3. My job title at Tesla was Production Associate, and I worked on the production floor. I
9 was stationed on the bottom floor near B23 and B27. My primary job duty involved removing
10 products from boxes and delivering those products to the production line. My direct supervisor
11 was Leigh High Gomez.

12 4. On April 28, 2017, I saw the following words handwritten on a pamphlet that was posted
13 on a bathroom stall door: "White Power Nigger!" I took a photograph of the graffiti with my cell
14 phone, which I texted to my supervisor Mr. Gomez that same day. A true and correct copy of that
15 photograph is attached hereto as Exhibit 1.

16 5. To my knowledge, Mr. Gomez took no steps to investigate the incident, and I was never
17 contacted again by anyone at Tesla concerning my report to Mr. Gomez.

18 6. While I was working at Tesla, I frequently heard co-workers who were not African-
19 American casually using the word "Nigga." This term was not directed at me, but I found it very
20 offensive, as no one should have to hear that kind of language at work.

21

22

I declare under the penalty of perjury that the foregoing is true and correct.

23

24

25 DATED: November 16, 2017

26

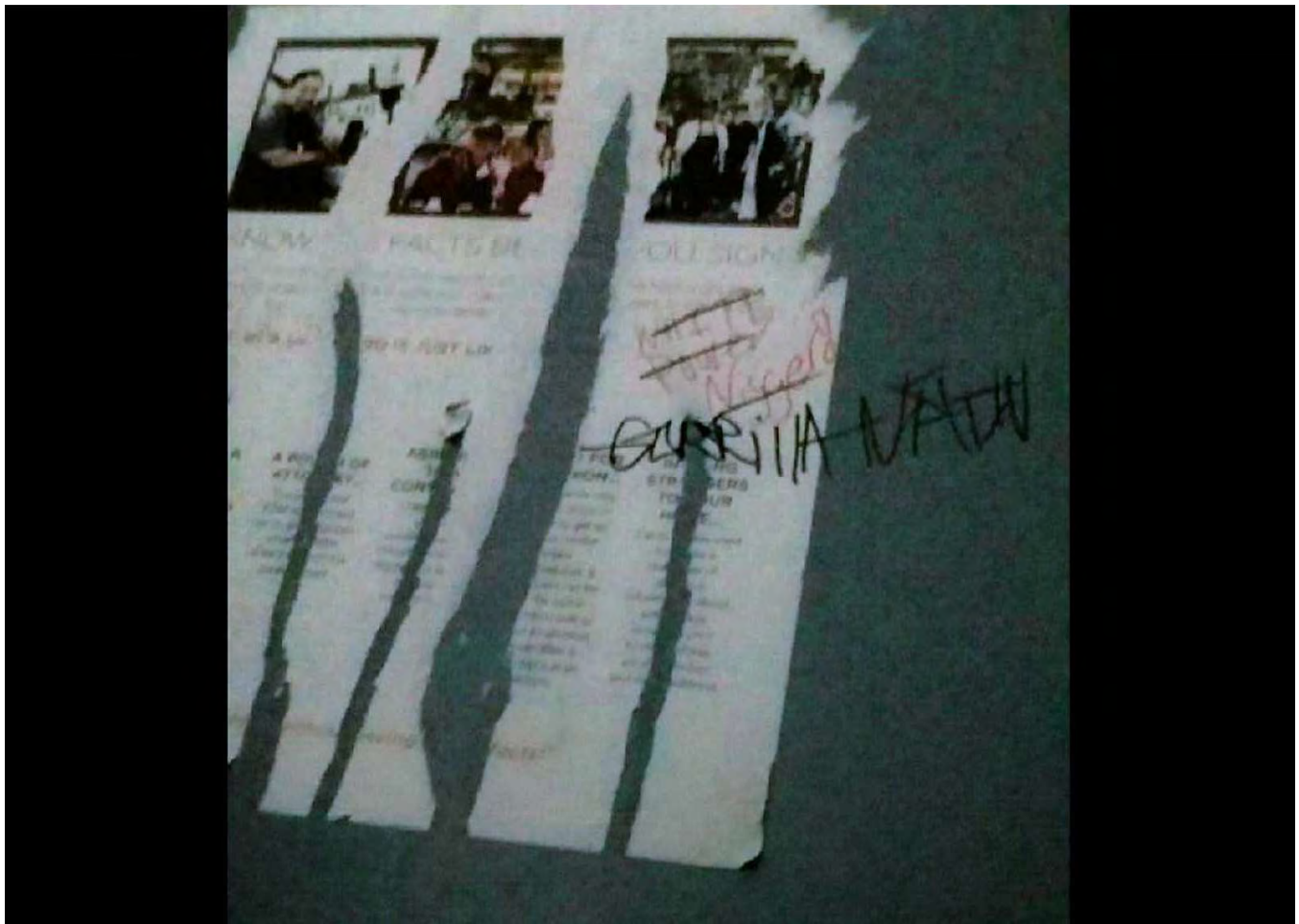
By: 

Nathan John Fraim

27

28

EXHIBIT 1



VAUGHN000083

Exhibit

26

Lawrence A. Organ (SBN 175503)
Navruz Avloni (SBN 279556)
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332 San Anselmo Avenue
San Anselmo, California 94960-2664
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Facsimile: (415) 785-7352
larry@civilrightsca.com
navruz@civilrightsca.com

Attorneys for Plaintiffs
MARCUS VAUGHN,
and all others similarly situated.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

MARCUS VAUGHN, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

TESLA, INC., doing business in California as
TESLA MOTORS, INC.; and DOES 1-10
inclusive,

Defendants.

Case No. RG17882082

PROOF OF SERVICE

///

///

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 332 San Anselmo Avenue, San Anselmo, CA 94960. I served the within documents on January 31, 2020:

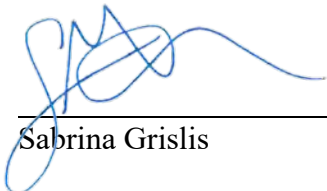
- **PLAINTIFFS' OBJECTIONS AND RESPONSES TO DEFENDANT'S REQUEST FOR PRODUCTION – SET ONE;**
- **PLAINTIFF'S OBJECTIONS AND RESPONSES TO DEFENDANT'S FORM INTERROGATORIES – GENERAL;**
- **PLAINTIFF'S OBJECTIONS AND RESPONSES TO DEFENDANT'S SPECIAL INTERROGATORIES – SET ONE;**
- **PLAINTIFFS' OBJECTIONS AND RESPONSES TO DEFENDANT'S FORM INTERROGATORIES – EMPLOYMENT;**
- **PLAINTIFF'S OBJECTIONS AND RESPONSES TO DEFENDANT'S REQUEST FOR ADMISSION – SET ONE;**
- **CD CONTAINING PLAINTIFF'S DOCUMENT PRODUCTION BATES LABELED VAUGHN000001-VAUGHN003612.**

xx

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Anselmo, California, addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing contained in the affidavit. *[(X) with courtesy copy via electronic mail]*

PLEASE SEE ATTACHED PROOF OF SERVICE MAILING LIST

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 31, 2020, at San Anselmo, California.



Sabrina Grislis

PROOF OF SERVICE MAILING LIST

Attorneys for Defendant TESLA, INC.:

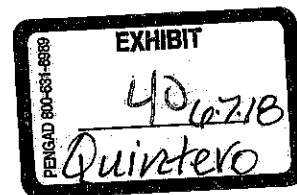
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Reanne Swafford-Harris, Esq.
Sami Hasan
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RSwafford-Harris@sheppardmullin.com
SHasan@sheppardmullin.com

Exhibit

27

5/31/2017



----- Original message -----

From: Elon Musk <erm@tesla.com>
Date: 5/31/17 4:38 AM (GMT-06:00)
To: Everybody <Everybody@tesla.com>
Subject: Doing the right thing

About four years ago, I sent out an email describing some of the core principles of Tesla. Since then, we have grown from 4,500 people to 33,000, so the vast majority of the company has never received this note. We are redoing the first day orientation and Tesla handbook to more clearly capture and emphasize these points, but I thought I should send this out in advance.

In my email below, please pay particular attention to the first point on the list. Tesla has to be hardcore and demanding, not for the hell of it, but because we are fighting for a good cause against giant, entrenched competitors who just want the status quo to continue. The list of companies that want to kill Tesla is so long, I've lost track – a week doesn't go by without some "Tesla Killer" article. The only way for a little company to prevail against those much larger companies is to work faster, smarter and harder. The passing grade at Tesla is excellence, because it has to be.

However, this does not give license to anyone to be a jerk. It is incredibly important that people look forward to coming

5/31/2017

Gmail - Fwd: Doing the right thing

to work in the morning. One of the best feelings in the world is to be part of a team that is fired up to achieve what most industry experts say is impossible! For many companies out there, work is like jail – employees look forward to Friday and dread Monday. That's horrible. We never want to be like that.

Part of not being a huge jerk is considering how someone might feel who is part of an historically less represented group. They have endured difficulties that someone born or raised in a more privileged situation did not. This doesn't mean that there is a different standard of performance or that you can't give critical feedback. You should – doing anything else would be an insult to the hard work it took to get there – but don't ever intentionally allow someone to feel excluded, uncomfortable or unfairly treated. Sometimes these things happen unintentionally, in which case you should apologize.

In fairness, if someone is a jerk to you, but sincerely apologizes, it is important to be thick-skinned and accept that apology. If you are part of a less represented group, you don't get a free pass on being a jerk yourself. We have had a few cases at Tesla where someone in a less represented group was actually given a job or promoted over more qualified highly represented candidates and then decided to sue Tesla for millions of dollars because they felt they weren't promoted enough. That is obviously not cool.

What it comes down to is this: do what would make your parents proud. If you can't look someone you respect in the eye and explain what you did, don't do it.

Thanks,
Elon

From: Elon Musk [mailto:elon@teslamotors.com]
Sent: Sunday, April 21, 2013 10:18 PM
To: Everybody <Everybody@tesla.com>
Subject: RE: Communication within Tesla

In the month that followed my email about communication, I made several personnel changes within Tesla. When I say that managers will be asked to leave if they take unreasonable actions to block the free flow of information within the company, I am not kidding. Please take my emails to heart.

A few more issues have come to my attention that are also showstoppers, so let me spell out some other important principles:

1. Tesla has a strict no a* policy – don't want to offend people's sensibilities by using the full word, but I'm sure you can figure it out :) What this means is that any manager who consistently behaves like an a* will, after being given an opportunity to reform, be asked to depart Tesla. This is not to say that you have to be perfect. Almost everyone is an a* some of the time, but it is not ok to be an a* most of the time, particularly for reasons that have nothing to do with the success of our company. In order for Tesla to succeed, we have to work much harder and smarter than the big auto companies or we will not survive, so it is fine to be very demanding, but always try to do so with kindness and respect.
2. If you are a manager (at any level) within Tesla, your team is not there to serve you – you are there to serve your team and help them do the best possible job for the company. This applies to me most of all. You are also expected to work harder than those who report to you and always make sure that their needs are taken care of before yours.
3. Whenever promotions are given out or non-temp employees are let go, a manager is expected to gather the team together and explain why it happened. Your team always needs to know why someone was rewarded or punished, otherwise they don't know how they should change their behavior in the future. If promotions or job terminations are perceived as random or based on favoritism, whether they are or not, it is super demoralizing.
4. This brings me to my final point, which is that managers must always take pains to avoid playing or being perceived to play favorites. This applies to the big things as well as the little things on the job.

In the annual reviews that start next month, not only will be managers grade people on their team, but anyone at Tesla will have the opportunity to submit a review on anyone else. You can review your manager, your coworkers, someone in another dept, your VP – literally anyone. The goal is to provide feedback that makes us a better company. Moreover, you will be able to submit the review at various levels of confidentiality, so that only your manager sees it, only your dept VP or only me. There are almost 4500 people at Tesla, so please only submit a review to me if you think something is going on that really hurts the company or you believe there will be lack of action at the VP level.

The theme of the above rules is simple: just behave like the sort of person you would want as your manager. Tesla must be a fair and just company, where people look forward to coming to work in the morning. Life is too short for anything else.

5/31/2017

Gmail - Fwd: Doing the right thing

Thanks,
Elon

From: Elon Musk
Sent: Thursday, March 21, 2013 12:26 PM
To: Everybody
Subject: Communication within Tesla

There are two schools of thought about how information should flow within companies. By far the most common way is chain of command, which means that you always flow communication through your manager. The problem with this approach is that, while it serves to enhance the power of the manager, it fails to serve the company.

Instead of a problem getting solved quickly, where a person in one dept talks to a person in another dept and makes the right thing happen, people are forced to talk to their manager who talks to their manager who talks to the manager in the other dept who talks to someone on his team. Then the info has to flow back the other way again. This is incredibly dumb. Any manager who allows this to happen, let alone encourages it, will soon find themselves working at another company. No kidding.

Anyone at Tesla can and should email/talk to anyone else according to what they think is the fastest way to solve a problem for the benefit of the whole company. You can talk to your manager's manager without his permission, you can talk directly to a VP in another dept, you can talk to me, you can talk to anyone without anyone else's permission. Moreover, you should consider yourself obligated to do so until the right thing happens. The point here is not random chitchat, but rather ensuring that we execute ultra-fast and well. We obviously cannot compete with the big car companies in size, so we must do so with intelligence and agility.

One final point is that managers should work hard to ensure that they are not creating silos within the company that create an us vs. them mentality or impede communication in any way. This is unfortunately a natural tendency and needs to be actively fought. How can it possibly help Tesla for depts to erect barriers between themselves or see their success as relative within the company instead of collective? We are all in the same boat. Always view yourself as working for the good of the company and never your dept.

Thanks,
Elon

Exhibit

28

To: Edward Romero[edromero@teslamotors.com]
Cc: Victor Quintero[vquintero@teslamotors.com], Erin Marconi[emarconi@teslamotors.com], Garrett, Terri[tgarrett@nextsource.com]
From: Jackson, Wayne[wjackson@nextsource.com]
Sent: Wed 12/30/2015 8:01:08 PM (UTC)
Subject: RE: Personnel Issues

[REDACTED]

For the other situation I have called and left messages for both Troy and Javier to contact me as soon as possible. I will let you know if I can connect with them today. We do take this seriously and I will do an investigation into these incidents.

From: Edward Romero [mailto:edromero@teslamotors.com]
Sent: Wednesday, December 30, 2015 3:41 AM
To: Jackson, Wayne <wjackson@nextsource.com>
Cc: Victor Quintero <vquintero@teslamotors.com>; Erin Marconi <emarconi@teslamotors.com>
Subject: Personnel Issues

Wayne,

There are two issues that arose today that need to be dealt with. [REDACTED]

[REDACTED]

2. Javier Temores and Troy Dennis:

I was approached by Javier with a complaint about Troy Dennis. He said that Troy Dennis had gotten upset and called him a "nigger". He said that Anthony Neely the night Lead had heard Troy use that word against Javier. I approached Anthony and asked him if he had heard Troy use that word against Javier. Although he hesitated for a moment he did admit that Troy said that against Javier. Anthony said he told Troy that he should not have used that word. I explained to Anthony that it is unacceptable for anyone to use that type of language. I told him I was obligated to report the incident. I told him to try to keep Javier assigned to the other elevator.

Javier Temores is very hurt and feels he cannot work around or near Troy Dennis.

Please look into these two situations.

Thank You,

Edward Romero
Building Services Contract Manager
(510) 648-7393

Exhibit

29

Message

From: Joshua Mantz [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JOSHUA MANTZ5DC]
Sent: 12/16/2015 2:30:58 AM
To: Maggie Crosby [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Maggie Crosby9e8]; Paul James [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Paul James9e1]
CC: Liza Lipson [/O=TESLA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Liza Lipsonb7a]
Subject: RE: Jeff Henry C03/F1 co worker complaint

Let's think about it overnight. Paul is going to go back tonight and speak with the Lead and get his statement. I'm sitting next to Paul right now, and I'm a bit more inclined to terminate.

Joshua Mantz | HR | Tesla Motors, Inc.

45500 Fremont Blvd, Fremont, CA 94538

c 785.307.2465 | jmantz@teslamotors.com

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Please consider the environment before printing this email.

From: Maggie Crosby
Sent: Tuesday, December 15, 2015 6:23 PM
To: Paul James
Cc: Joshua Mantz; Liza Lipson
Subject: RE: Jeff Henry C03/F1 co worker complaint

Hi Paul,

Thanks for taking this on. I agree with you that at a minimum we need to issue a final written, but I would suggest that we not take termination off the table. Their strength as workers is irrelevant.

Josh?

Maggie

From: Paul James
Sent: Tuesday, December 15, 2015 6:06 PM
To: Maggie Crosby <mcrosby@teslamotors.com>
Cc: Joshua Mantz <jmantz@teslamotors.com>; Liza Lipson <lipson@teslamotors.com>
Subject: RE: Jeff Henry C03/F1 co worker complaint

Hey Maggie,

I managed to conducted the investigation for the confrontation on Chassis 3, Dec 11 2015. Here are my findings:

Jeff Henry

1. While working on Chassis 3, overheard offensive remarks during a conversation of co-workers using the ("N" word)

- a. Coworker Richard Hayes was speaking across the station with at high volume interjecting the Word "Nigga" while
- b. Jeff confronted Richard and asked him to refrain from using such language
- c. Richards responded with "fuck you nigga you're not my boss" "I will say what I want".
- d. Jeff then stated that it was unprofessional to use this language in the workplace.
- e. Richard responded by walking towards Jeff and getting within inches of his face
- f. Jeff pushed him away lightly; then Richard approached him more aggressively and Jeff pushed him away even harder
- g. Richard then asked Jeff "do you want to fight?"
- h. Jeff stated that he did not want to fight, he just didn't appreciate the language used
- i. Richard then returned to his work station and no further issues occurred after that incident

Richard Hayes

1. Jeff was overreacting, this is common talk on the line and this is the first time Jeff had a problem with it
2. Jeff thinks that he is my boss because he was placed with the acting lead role but he is not.
3. I thought about my actions afterwards and understand that I acted unprofessionally and will be more conscious of my language in the work place.

Their Supervisor Aaron Padron stated that both are great workers and he really doesn't want to move forward with Termination just yet. I would recommend at minimum that we issue a Final Written warning and if this continues, move forward with termination.

Please share your opinion and let me know if you have any further questions. Never a dull moment in Tesla!

Thank you,

Paul A. James | HR | Tesla Motors, Inc.

45500 Fremont Blvd. | Fremont, CA 94538

(510) 249-8428 | e pajames@teslamotors.com

From: Maggie Crosby

Sent: Tuesday, December 15, 2015 2:37 PM

To: Paul James

Subject: FW: Jeff Henry C03/F1 co worker complaint

From: Maggie Crosby

Sent: Sunday, December 13, 2015 10:07 AM

To: Joshua Mantz <jmantz@teslamotors.com>

Subject: Re: Jeff Henry C03/F1 co worker complaint

Sounds good!

Sent from my iPhone

On Dec 13, 2015, at 9:53 AM, Joshua Mantz <jmantz@teslamotors.com> wrote:

Cool- might be a term if everything checks out. The lead and associate caught me when I was walking by on Friday afternoon, and I asked them to summarize via email (what he sent is below). Thanks Maggie :-)

Also- let's pull Liza into this process...it'll be good for her to start seeing the steps of how we approach this, interview people, ect.

Thanks,
Josh

Sent from my iPhone

On Dec 12, 2015, at 2:23 PM, Maggie Crosby <mcrosby@teslamotors.com> wrote:

Yikes. I'll look into this on Monday.

Maggie

On Dec 12, 2015, at 11:18 AM, Joshua Mantz <jmantz@teslamotors.com> wrote:

Thanks for pushing us this information Sergio – we will look into this and follow up on Monday when all other parties are present. Thanks! -Josh

Joshua Mantz | HR | Tesla Motors, Inc.

45500 Fremont Blvd, Fremont, CA 94538

c 785.307.2465 | jmantz@teslamotors.com

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Please consider the environment before printing this email.

From: Sergio Cortes
Sent: Friday, December 11, 2015 6:53 PM
To: Joshua Mantz
Cc: Jeffrey Henry; Alan McCoy
Subject: Jeff Henry C03/F1 co worker complaint

Hello my name is Jeff Henry /C03 F1 and this is my story. Today at approximately 3:40pm while working in C3 I heard someone in my work area yelling "NIGGER" within my workstation. I turned and it was my co-worker Richard Hayes. I quickly sprang into action and calmly let Richard know that that language is not tolerated at Tesla. Richard responded with " fuck you nigger you're not my boss". I responded by reiterating that he shouldn't be yelling obscenities in the workplace. To which he responded " I'll say whatever I want". At this point I reminded Richard I didn't have anything against him but that his behavior was unprofessional. He then approached closer to me and continued to argue with me. I asked him to stop and stated that I was feeling very threatened. As I was working he continued to stand next to me and when I would turn away he would follow to stay within eye sight next to me and continue arguing with me. At that point he had taken this whole

thing personally, and I asked him to please step away and he didn't. so I pushed him away lightly and he got angrier. Then feeling threatened I pushed him hard and told him to stay away. And he started asking if I wanted to fight and I said no, to please keep calm and he refused and then he went back to his station and worked on his car then we had break right after and when he came back he was calm.

Exhibit

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~~Lamar Patterson-Confidential~~

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ
and LAMAR PATTERSON, an
individual,

No. 3:17-cv-06748-WHO

Plaintiffs,

CONFIDENTIAL

vs.

TESLA, INC. DBA TESLA
MOTORS, INC.; CITISTAFF
SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING
SERVICES, INC., and DOES
1-10, inclusive,

Defendants.

CONFIDENTIAL

Deposition of

LAMAR PATTERSON

San Francisco, California

Friday, July 26, 2019

REPORTED BY:
Sarah Jean Seitz
CSR No. 14175, RPR
FILE No: 19-29151



1 Deposition of LAMAR PATTERSON, taken on behalf
2 of Defendants at Four Embarcadero Center, 17th Floor,
3 San Francisco, California 94111, commencing at 10:12
4 a.m. on Friday, July 26, 2019, before Sarah Seitz,
5 Certified Shorthand Reporter No. 14175, RPR.

6 APPEARANCES

7 FOR THE PLAINTIFFS AND THE WITNESS:

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16 FISHER PHILLIPS

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APPEARANCES (CONTINUED)

ALSO PRESENT:

Jamie Bodiford - Tesla

---oOo---

1 of -- this is not Lamar's deposition for his case. This
2 is really a deposition in the Diaz matter, and he is a
3 witness. So . . .

4 MS. JENG: Right. The plaintiffs in this case
5 have -- had discovery responses saying that
6 Mr. Patterson will be testifying, not just about them,
7 but about his own experience at Tesla. So I'm entitled
8 to questions regarding his experience at Tesla,
9 including his employment, how it began, how it ended.

10 And I assume he is going to be testifying about
11 that in this case as well. If he'll stipulate not to,
12 then I'll reconsider, but . . .

13 MS. AVLONI: If you'll stipulate to using this
14 deposition for his case, then we'll agree to that. You
15 can ask him whatever you want to. But the reality is,
16 if he is going to be called in twice for full eight-,
17 nine-hour depositions, that's just harassing.

18 MS. JENG: Well, if he is going to be
19 testifying about the same things in his case as this
20 case, then I'm entitled to the same answers and
21 questions --

22 MS. AVLONI: I understand that, but the
23 reality is --

24 MS. JENG: That is the reality. Is he going to
25 be testifying --

1 Q. Do you recall applying again for the material
2 handler position at Tesla on November 20, 2015?

3 A. No.

4 Q. And November 20th, that was before you sent
5 your resume to Owen Diaz; right?

6 A. Yes.

7 Q. Do you recall whether you spoke with anybody
8 about the material handler position at that time in
9 November 2015?

10 A. No.

11 Q. Do you recall applying for a material handler
12 position with Tesla in -- on May 30th of 2017?

13 A. No.

14 Q. Do you have any reason to believe you did not
15 apply for the material handler position at Tesla on
16 May 30, 2017?

17 A. No.

18 Q. And then between November 20, 2015, and May 30,
19 2017, is actually when you worked for Chartwell and was
20 staffed at Tesla; right?

21 A. Yes.

22 Q. So if you were working at Tesla in 2016 through
23 Chartwell, why were you applying to Tesla again here on
24 May 30, 2017?

25 MS. AVLONI: Assumes facts not in evidence.

1 THE WITNESS: I'm not sure.

2 BY MS. JENG:

3 Q. What do you mean you are not sure?

4 A. I'm not sure why I would apply if I'm already
5 working there.

6 Q. Well, when did you stop working at Tesla?

7 A. Not -- I don't know the exact date.

8 Q. Uh-huh. Can you give me an approximate --
9 approximate date?

10 A. About August.

11 Q. August 2016?

12 A. Yes.

13 Q. Okay. So you weren't -- you were not working
14 at Tesla as of May 30, 2017; right?

15 A. Yes.

16 Q. So why were you applying to work at Tesla again
17 on May 30, 2017?

18 MS. AVLONI: Assumes facts not in evidence.

19 THE WITNESS: I don't recall applying.

20 BY MS. JENG:

21 Q. Okay. Do you have any reason to believe you
22 did not apply on May 30, 2017?

23 A. Yes.

24 Q. What reasons do you have for that belief?

25 A. Because I don't recall applying.

1 BY MS. JENG:

2 Q. Do you know anybody named Judy Timbreza?

3 A. No.

4 Q. Okay. Does that name sound familiar at all?

5 A. No.

6 Q. Have you ever heard that name?

7 A. Possibly.

8 Q. But you don't have any recollection, as you sit
9 here today, of ever hearing that name?

10 A. No.

11 Q. Are you familiar with someone named Ramon
12 Martinez?

13 A. Yes.

14 Q. Okay. And who is Mr. Martinez?

15 A. He worked at Tesla.

16 Q. When did you first meet him, if you met him?

17 A. When did I first meet him?

18 Q. Uh-huh.

19 A. I don't know.

20 Q. Did you work with him?

21 A. No.

22 Q. How did you know who he was?

23 A. Just through other employers.

24 Q. Employers?

25 A. Well, people that worked there. Sorry.

1 Q. Okay. Have you ever met him?

2 A. Just briefly.

3 Q. Okay. Have you ever talked to him?

4 A. Briefly.

5 Q. How many times?

6 A. I don't know how many times.

7 Q. Was it under five?

8 A. Possibly.

9 Q. Do you -- was it over five?

10 A. It could be about under five. I'm not
11 positive.

12 Q. What is your best estimate?

13 A. Maybe two to three.

14 Q. Okay. What did you guys talk about when you
15 met him briefly two to three times?

16 A. Just work-related stuff.

17 Q. Okay. Did you and Mr. Martinez ever talk about
18 non-work-related things?

19 A. No.

20 Q. Do you know what agency he worked with?

21 A. No.

22 Q. Have you ever witnessed Ramon and Owen
23 interacting?

24 A. Yes.

25 Q. Okay. How many times?

1 A. Not that many times.

2 Q. How many would you -- how many would you
3 estimate?

4 A. Maybe once or twice.

5 Q. Okay. Did you and Owen work in the same area
6 as Mr. Martinez?

7 A. No.

8 Q. Okay. How -- do you know what area he was
9 working in?

10 A. No.

11 Q. So you saw Ramon and Owen interacting once or
12 twice. What was their first interaction like that you
13 saw?

14 A. I don't recall.

15 Q. You don't recall anything about it?

16 A. No.

17 Q. Was it short?

18 A. Yes.

19 Q. Okay. Was it work related?

20 A. Yes.

21 Q. Was there anybody else around?

22 A. I don't recall.

23 Q. Okay. And then the second interaction between
24 Ramon and Owen that you saw, do you recall any details
25 about that?

1 Q. Okay. So you left Ed a voicemail?

2 A. Correct.

3 Q. And what do you recall saying to Ed in your
4 voicemail?

5 A. Stating that, you know, the word was used and
6 what was the next step.

7 Q. Okay. And did you ever get confirmation that
8 Ed received your voicemail?

9 A. Not directly. We never discussed it. He knew
10 it. We just never discussed it.

11 Q. How do you know he knew of it?

12 A. Well, from the conversations of him receiving
13 an email from me and --

14 Q. An email or voicemail?

15 A. I mean -- I'm sorry.

16 Q. It's okay.

17 A. A voicemail. I'm sorry.

18 Q. And did Ed tell you he got the voicemail?

19 A. Yes.

20 Q. And he never discussed anything with you after
21 he said he got the voicemail?

22 A. No.

23 Q. And what did you say in response to Ed when Ed
24 said he got the voicemail?

25 A. So what were the actions going to be.

1 Q. And what did Ed say?

2 A. He would have to talk to his boss or manager.

3 Q. Okay. And then what did you say?

4 A. I said okay.

5 Q. And what did you say to Owen and Ed about the
6 use of the N-word?

7 A. How freely it was used and that it wasn't
8 right. It was very offensive.

9 Q. Do you recall identifying any specific people
10 that used the N-word?

11 A. No. I don't know the exact names of people
12 that used the word, no.

13 Q. Do you recall anybody specific that you heard
14 using that word?

15 A. No.

16 Q. What was the context in which you heard it
17 used? The N-word?

18 A. What do you mean? Can you be more descriptive?

19 Q. Sure.

20 So you are saying that you heard the N-word
21 used freely, but you don't recall anybody specific using
22 that word. But how did you -- how was the word used?

23 A. In an offensive way.

24 Q. Can you tell me the full sentence that you
25 heard it in or . . .

1 A. No.

2 Q. Okay. Let's talk about you seeing the N-word
3 written.

4 Where did you see that written?

5 A. In bathrooms.

6 Q. Do you recall which bathroom it was?

7 A. The one closest to the elevator and a few
8 others.

9 Q. Okay. Elevator 1?

10 A. I believe so.

11 Q. That's where you worked; right?

12 A. Yeah.

13 Q. Do you remember where the other bathrooms were
14 that you saw it?

15 A. They are located all throughout the warehouse,
16 so there's quite a few.

17 Q. Did you use all the bathrooms in the warehouse?

18 A. No. Not all the time.

19 Q. Okay. Which ones did you use? Do you
20 remember?

21 A. The one that was close to the elevator and
22 downstairs.

23 Q. So you used two bathrooms?

24 A. Yeah. Two, three.

25 Q. Okay. Do you remember where the other two were

1 Q. Okay. Do you remember anything else about the
2 written N-word in the bathroom closest to the elevator?

3 A. No.

4 Q. What did -- what did it say? Was it just "N
5 dash word"? Was it spelled out?

6 A. It was spelled out.

7 Q. How was it spelled out?

8 A. N-I-G-G-E-R.

9 Q. Do you remember seeing anything else in that
10 bathroom?

11 MS. AVLONI: Vague and ambiguous. Overbroad.

12 MS. JENG: That was -- sorry. Let me re-ask
13 that question.

14 BY MS. JENG:

15 Q. Do you remember seeing anything else in the
16 bathroom closest to Elevator 1 that you found offensive?

17 A. There was a Nazi sign.

18 Q. Okay. Anything else?

19 A. That's it that I can recall.

20 Q. Okay. Did you see the Nazi sign the same time
21 you saw the N-word?

22 A. Yes.

23 Q. And do you recall generally what date that was?

24 A. I'm not sure exactly the date.

25 Q. Okay. Was it towards the beginning of your

1 A. Because it is required.

2 Q. Was this to recertify you as a forklift driver?

3 A. Yes.

4 Q. You mentioned earlier that you got a written
5 write-up for, I guess, driving the forklift into the
6 elevator door; is that correct?

7 A. Yes.

8 Q. Who gave you that write-up?

9 A. Who gave it to me?

10 Q. Yes.

11 MS. AVLONI: If you know.

12 THE WITNESS: I'm not sure exactly who gave it
13 to me.

14 BY MR. ARANEDA:

15 Q. Did someone discuss it with you?

16 A. Just my supervisor.

17 Q. Who was that?

18 A. Well, Owen is my lead, so it would be Ed.

19 Q. Okay. So Ed discussed the write-up with you?

20 A. Yes.

21 Q. Okay. Earlier today it was asked of you if you
22 communicated with Wayne Jackson. Did you know Wayne
23 Jackson when you worked at Tesla?

24 A. No.

25 Q. You never met someone by the name of Wayne

CERTIFICATE OF REPORTER

I, SARAH J. SEITZ, CSR No. 14175, RPR, certify:
That the foregoing proceedings were taken before me at
the time and place herein set forth; at which time the
witness was duly sworn; and that the transcript is a
true record of the testimony so given.

Witness review, correction, and signature was
(X) By code. (X) Requested.
() Waived. () Not requested.
() Not handled by the deposition officer due to party
stipulation.

The dismantling, unsealing, or unbinding of the
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certificate null and void.

I further certify that I am not financially
interested in the action, and I am not a relative or
employee of any attorney of the parties, nor of any of
the parties.

Dated this 6th day of August, 2019.



SARAH J. SEITZ, CSR No. 14175, RPR

Exhibit

31



351 California Street, Suite 200
San Francisco, CA 94104
310.256.3083

arutschman@constangy.com

November 15, 2018

VIA U.S. MAIL

Lawrence A. Organ, Esq.
Navruz Avloni, Esq.
California Civil Rights Law Group
332 San Anselmo Avenue
San Anselmo, CA 94960

Re: *Demetric Di-az, et al. v. Tesla, Inc. dba Tesla Motors, Inc.*
USDC Northern District of California Case No.: 3:17-cv-06748-WHO

Counsel:

Enclosed, please find a notice for the deposition of Lamar Patterson in connection with the above-reference lawsuit. Please let us know at your earliest opportunity if you do not represent Mr. Patterson for purposes of this lawsuit so that we can issue a subpoena as appropriate. Please also let us know if you are not available on the noticed date of January 10, 2019 and we will meet and confer to determine a mutually agreeable date in advance of the discovery cutoff.

Very truly yours,

A handwritten signature in blue ink, appearing to read "A. Rutschman".

Aaron M. Rutschman

Enclosures

Exhibit

32

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

--oOo--

DEMETRIC DIAZ, OWEN DIAZ AND)	
LAMAR PATTERSON,)	
)	
Plaintiffs,)	CASE NO.
)	3:17-cv-06748-WHO
vs.)	
)	
TESLA, INC., DBA TESLA MOTORS,)	
INC.; CITISTAFF SOLUTIONS, INC.;)	
WEST VALLEY STAFFING GROUP;)	
CHARTWELL STAFFING SERVICES,)	
INC.; AND DOES 1-50, INCLUSIVE,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF TAMOTSU KAWASAKI

DATE: OCTOBER 9, 2019

TIME: 2:05 P.M.

LOCATION: CALIFORNIA CIVIL RIGHTS LAW GROUP
180 GRAND AVENUE, SUITE 1380
OAKLAND, CALIFORNIA

REPORTED BY: ANGIE M. MATERAZZI
Certified Shorthand Reporter
License No. 13116

TAMOTSU KAWASAKI

October 9, 2019

1 APPEARANCES:

2

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20

21

22

23

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TAMOTSU KAWASAKI
October 9, 2019

1 is 3:35.

2 (Off the record at 3:35 p.m. and back on
3 the record at 3:37 p.m.)

4 MR. ORGAN: Okay. We're back on the record.
5 The time is 3:37.

6 BY MR. ORGAN:

7 Q. Did -- when you were walking around the
8 facility, did you ever hear anyone using the N-word,
9 even if you can't identify them, did you hear that word?

10 A. I mean, I heard it all the over the facility.
11 I mean, it's -- there's a bunch of staffing companies,
12 man. I mean, you had -- you had a range of people, man.
13 Staffing companies hire -- you go to a staffing company
14 because you can't get a job, per se, like a -- I guess a
15 real person or whatever, you have a background, whatever
16 it is. I mean, we filtered through a lot of people.
17 I'm not knocking people for what they do, but it's a
18 staffing agency, per se. So you got a wide arrange of
19 people.

20 Like I said, in our age, that word gets thrown
21 around very causally. Now, if you -- there is tones the
22 way you say it and what it is, but -- I mean, I've heard
23 it thrown around there, yeah.

24 Q. How -- how often do you think you heard the
25 N-word at the Tesla factory?

1 at NextSource?

2 A. No. I -- what -- what do you mean by that?

3 You got to rephrase that.

4 Q. Sure. Was anyone at NextSource informed of
5 the incident between Mr. Ramon Martinez and Mr. Owen
6 Diaz?

7 A. Not by me. I don't -- I can't tell by anybody
8 else but not by me. I didn't -- don't have -- don't
9 know anybody at NextSource or e-mail chain.

10 Like I said, my e-mails always went to Victor,
11 Jaime and Ed, when Ed came. Before that, it was Victor
12 and Jaime.

13 Q. You testified that you heard the N-word thrown
14 around, but you did not think anything of this.

15 What did you -- what did you mean by that?

16 A. It -- I mean, I drive around the building,
17 people are -- whatever, they're on break, they're in the
18 cafeteria, they're joking around with each other, you
19 know, they're saying the N-word to each other, maybe in
20 a cool way or whatever to them, whatever it is.

21 I -- just -- it -- it didn't recollect to me
22 that that wasn't right or I should say something or
23 whatever. It -- like I said, that had nothing to do
24 with me. It wasn't hurting me, it wasn't hurting my
25 people in doing their job. They weren't my employees.

1 It didn't affect me. So I just thought nothing of it.

2 It's like walking down the street right now hearing
3 somebody saying it. You're not going to think twice,
4 you're not going to stop.

5 Q. Did you -- did you -- did you think nothing of
6 it because you heard it sort of more of a greeting
7 between people? Is that what you're saying?

8 A. It was -- it wasn't like an argument tone, it
9 wasn't in an aggressive tone, so.

10 Q. Did you -- did you believe it was not being
11 used in an offensive manner?

12 A. Yes --

13 MR. ORGAN: Objection, assume facts not in
14 evidence, calls for speculation.

15 BY MR. ARANEDA:

16 Q. Did you ever hear Mr. Diaz use the N-word?

17 A. No.

18 Q. You -- you testified earlier that you spoke
19 with Mr. Organ's office, correct?

20 A. (No audible response.)

21 Q. How long did you -- was that in an person --
22 strike that.

23 The conversation that you had with Mr. Organ's
24 office, was that in an person conversation or over the
25 telephone?

TAMOTSU KAWASAKI

October 9, 2019

1 CERTIFICATE OF DEPOSITION OFFICER

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I, ANGIE M. MATERAZZI, CSR No. 13116, duly

authorized to administer oaths Pursuant to Section

2093(b) of the California Code of Civil Procedure,

hereby certify that the witness in the foregoing

deposition was by me duly sworn to testify the truth,

the whole truth and nothing but the truth in the

within-entitled cause; that said deposition was taken at

the time and place therein stated; that the testimony of

the said witness was reported by me and thereafter

transcribed by me or under my direction into

typewriting; that the foregoing is a full, complete and

true record of said testimony; and that the witness was

given an opportunity to read and correct said deposition

and to subscribe the same.

I further certify that I am not of counsel nor

attorney for either or any of the parties in the

deposition and caption named, or in any way interested

in the outcome of the cause named in said caption.

I hereby certify this copy is a true and
exact copy of the original.

ANGIE M. MATERAZZI, CSR 13116

Date: _____

Exhibit

33

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

- - - - -
DEMETRIC DIAZ, OWEN DIAZ, and)
LAMAR PATTERSON,)
Plaintiffs,) CASE NO.
vs.) 3:17-CV-06748-WHO
TESLA, INC. dba TESLA MOTORS,)
INC.; CITISTAFF SOLUTIONS,)
INC.; WEST VALLEY STAFFING)
GROUP; CHARTWELL STAFFING)
SERVICES, INC.; and DOES 1-50,)
inclusive,)
Defendants.)
- - - - -

DEPOSITION OF MICHAEL JOHN WHEELER

WEDNESDAY, JUNE 12, 2019

Reported by:
BY: MELINDA M. SELLERS, CSR# 10686, RMR, CRC, CRR, CCRR

MICHAEL JOHN WHEELER
June 12, 2019

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9 Deposition of MICHAEL JOHN WHEELER, taken on
10 behalf of PLAINTIFFS, at 180 Grand Ave., Suite 1380,
11 Oakland, California, commencing at 12:18 p.m.,
12 WEDNESDAY, JUNE 12, 2019, before Melinda M. Sellers,
13 Certified Shorthand Reporter No. 10686, pursuant to
14 Notice.

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25

MICHAEL JOHN WHEELER

June 12, 2019

1 APPEARANCES OF COUNSEL:

2 FOR PLAINTIFFS:

3 CALIFORNIA CIVIL RIGHTS LAW GROUP

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MICHAEL JOHN WHEELER
June 12, 2019

1 APPEARANCES OF COUNSEL (CONTINUED):
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8 Email: skumagai@lkclaw.com
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10 ALSO PRESENT:
11 SAJA SPEARMAN, INTERN/VIDEOGRAPHER
12
13
14
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MICHAEL JOHN WHEELER

June 12, 2019

1 **A. Mm-hmm.**

2 Q. Is that right?

3 **A. Yes.**

4 Q. And I think we said that was in either the
5 September/October 2015 time frame that you moved up
6 to supervisor --

7 **A. Yes.**

8 Q. -- is that right?

9 Okay. And when you moved up to supervisor,
10 the supervisor position wasn't necessarily an
11 employee or a direct employee of Tesla, right?

12 **A. No.**

13 Q. And tell me what the job duties were of the
14 supervisor position?

15 **A. So I managed the other 22 employees that**
16 **worked graveyard with me, making sure that they were**
17 **on time, they were following the protocols, safety,**
18 **lunch times were monitored, putting together plans**
19 **and working with Tesla employees to make the**
20 **recycling process better. And then, of course,**
21 **disciplinary.**

22 Q. Okay. So you would do, like, performance
23 appraisals or things like that?

24 **A. I would do all the way up to termination.**

25 Q. As the supervisor, did you have authority

MICHAEL JOHN WHEELER

June 12, 2019

1 to terminate --

2 **A. Yes.**

3 Q. -- people under you?

4 **A. Mm-hmm. There are a few, yes, employees**
5 **that I did have to ask to leave.**

6 Q. Okay. And when you asked people to leave,
7 did Tesla have input on that process?

8 **A. Josue and that circle, upper circle, yes,**
9 **they could. For the most part anyone that I asked**
10 **to leave was a pretty serious offense.**

11 Q. Okay. But in terms of terminating
12 employees, you would always consult with the -- the
13 managers from Tesla; is that right?

14 **A. No. I would talk to -- I'd send the emails**
15 **out to the appropriate channels, but very rarely did**
16 **they respond.**

17 Q. Okay.

18 **A. A lot of those cases at Tesla are**
19 **cut-and-dry. We have people that bring guns to**
20 **Tesla. We have people that bring cocaine to Tesla.**
21 **We have people fornicating at Tesla. So it's --**
22 **it's usually an easy fix.**

23 Q. Okay. In terms of the policies that you
24 were enforcing as the supervisor in the recycling --
25 is it okay if I call it recycling?

1 that -- tell me what that might mean, if you know.

2 A. I wouldn't say the operators were
3 recycling.

4 Q. Okay.

5 A. They literally stayed in the elevator all
6 day, taking Tesla products and recycling products
7 upstairs and downstairs --

8 Q. Okay.

9 A. -- but never did they need to move anything
10 other than off or onto the elevator. So they did
11 not break down boxes or sort or anything of that
12 caliber.

13 Q. Okay. Did you actually supervise Owen Diaz
14 in any way?

15 A. I was above Owen. I never needed to do
16 more than ask him, "Hey, can you bring something
17 down? Can you take this up?"

18 Q. Okay. So you had an ability to at least
19 direct Owen's work, but you didn't have
20 responsibility for his -- for -- direct supervision
21 of his work? Or tell me what your leadership was.

22 A. So I was technically Owen's superior.

23 Q. Okay.

24 A. And if I needed him to do something, that
25 would have been the chain of command.

MICHAEL JOHN WHEELER

June 12, 2019

1 Q. Okay. And then you sat in human feces?

2 A. **Slid right into -- I don't know what type.**

3 Q. Okay.

4 A. **I didn't --**

5 Q. Okay. You didn't test it?

6 A. **No.**

7 Q. Okay. So you sat on feces that had been
8 put on your seat; is that right?

9 A. **Correct.**

10 Q. Then after this happened you sent an email
11 to Victor Quintero, to security, and to others?

12 A. **To everybody.**

13 Q. Okay.

14 A. **The whole management because I was -- I was**
15 **enrage -- I was so -- like, I was very upset. I had**
16 **gone to lunch, came back.**

17 **And what upset me even more is security**
18 **said, "We can't see anything. We can't see where**
19 **your car was parked," which I know for a fact is a**
20 **lie because at the front of the Tesla building, the**
21 **main facility, Elon has his speedsters -- his**
22 **Roadsters there, the main ones, his first cars. My**
23 **car was parked within 10 to 15 feet of those cars at**
24 **the charging station that's right there. So --**

25 Q. Is it like a golf cart? Is that what it --

MICHAEL JOHN WHEELER
June 12, 2019

1 **A. It's not a golf cart with a top on it, but**
2 **it was a green cart with a grill and then a black**
3 **bed for the back.**

4 **Q. That you could carry things around in?**

5 **A. Yes.**

6 **Q. Okay. After you sent the email to Victor**
7 **Quintero, did you ever get any kind of response from**
8 **him about the feces in your seat?**

9 **A. Not that I remember. I remember security**
10 **said there's nothing -- "We can't see anything."**

11 **And I'm pretty sure I threw a stink about**
12 **that. I don't know for how long after. Not, like,**
13 **anything crazy. I didn't go, "Oh. Was it you? Was**
14 **it you?" No.**

15 **But I do remember trying to push more to**
16 **see what was -- like, what was going on.**

17 **Q. And you took pictures of the feces in your**
18 **cart?**

19 **A. I did.**

20 **Q. Right.**

21 **A. On the Tesla phone.**

22 **Q. And you sent copies of the pictures to**
23 **Victor Quintero?**

24 **A. Should be in the email.**

25 **Q. Okay.**

1 **threatened to kill him?**

2 Q. Yeah.

3 **A. Is that the one?**

4 Q. Yeah.

5 **A. Okay.**

6 Q. You were aware of that --

7 **A. I was aware of that situation, yes.**

8 Q. You were also aware that Owen had
9 complained previously that Ramon Martinez had
10 threatened him, correct?

11 **A. I do not recall that.**

12 Q. Okay. Now, in addition to you, Owen also
13 had other supervisors; is that correct?

14 **A. It would have been Ramon.**

15 Q. Ramon Martinez?

16 **A. And Israel, the swing shift.**

17 Q. Okay.

18 **A. Because I want to say Owen worked from**
19 6:00 to 6:00.

20 Q. Yeah.

21 **A. So he fell on to two different shifts.**

22 Q. Okay. So because Owen worked 6:00 to 6:00,
23 he had multiple supervisors; is that correct?

24 **A. Correct.**

25 Q. And those supervisors included yourself; is

MICHAEL JOHN WHEELER

June 12, 2019

1 STATE OF CALIFORNIA)

2) ss

3 COUNTY OF CALAVERAS)

4 I hereby certify that the witness in the
5 foregoing deposition of MICHAEL JOHN WHEELER was by
6 me duly sworn to testify to the truth, the whole
7 truth, and nothing but the truth in the
8 within-entitled cause; that said deposition was taken
9 at the time and place herein named; that the
10 deposition is a true record of the witness's
11 testimony as reported by me, a duly certified
12 shorthand reporter and a disinterested person, and
13 was thereafter transcribed into typewriting by
14 computer.

15 I further certify that I am not interested
16 in the outcome of the said action, nor connected
17 with, nor related to any of the parties in said
18 action, nor to their respective counsel.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand this 24th day of June, 2019.

21

22

23

24 _____
MELINDA M. SELLERS, CSR NO. 10686

25 STATE OF CALIFORNIA

Exhibit

34

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

No. 3:17-cv-06748-WHO

vs.

TESLA, INC. dba TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC.; NEXTSOURCE,
INC.; and DOES 1-50,
inclusive,

Defendants.

_____ /

DEPOSITION OF WAYNE JACKSON

Friday, May 17, 2019

Reported by: Patricia Rosinski, CSR #4555

Job No. 13571

WAYNE JACKSON

May 17, 2019

1 A P P E A R A N C E S

2

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WAYNE JACKSON

May 17, 2019

1 A P P E A R A N C E S (continued)

2

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WAYNE JACKSON

May 17, 2019

1 right? Any version of the N word?

2 A. I don't like the word, period, but, you know, I
3 understand a little more why they do it. I just wish
4 they wouldn't.

5 Q. Right.

6 And did you ever communicate to anybody at,
7 like, Tesla human resources or anything like that about
8 the fact that you're hearing --

9 A. No, sir.

10 Q. -- A version of the N word?

11 A. No, sir, I did not.

12 Q. Did you talk to the two -- the two
13 Asian-American people who you overheard where you have
14 the specific recollection about them saying, What's up,
15 my N word with an A, did you talk to them about the
16 fact --

17 A. Yes.

18 Q. -- that they had used it?

19 A. Yes, sir.

20 THE REPORTER: Wait a minute.

21 THE WITNESS: Sorry.

22 MR. ORGAN: Q. And what did you tell them in
23 terms of after you heard them say -- use the A version
24 of the N word?

25 A. I just basically let them know, you guys

WAYNE JACKSON

May 17, 2019

1 be having just common conversations.

2 Like I said, I don't -- I honestly don't feel
3 like they were trying to offend anybody. It's just kind
4 of what the culture has evolved into as of late.

5 It's unfortunate, but I don't necessarily feel
6 they were trying to say it in an inoffensive way.

7 Q. Right.

8 They may not have been intending to be
9 offensive, but, certainly, from your perspective --

10 A. Can I --

11 Q. Sure.

12 A. She's calling me.

13 MR. HORTON: Take a quick break?

14 MR. ORGAN: Sure.

15 (Whereupon, a recess was held from
16 1:29 p.m. to 1:32 p.m.)

17 MR. ORGAN: Back on the record.

18 Q. In terms of the areas that you heard the
19 N word, you said in the floor area typically near the
20 satellite cafeterias.

21 Is that correct?

22 A. Yes, sir, where the people would be coming for
23 lunch and they'd be walking in groups talking, things
24 like that.

25 Q. And in terms of -- I think the question I was

WAYNE JACKSON

May 17, 2019

1 going to ask you was, you mentioned that you didn't
2 think that the workers who you overheard were intending
3 it to be offensive, but, certainly, as an
4 African-American male, any time anyone uses even -- the
5 A version of the N word, that's offensive to you, isn't
6 it?

7 **A. I wouldn't say that. To be honest, a lot of**
8 **African-Americans use that word amongst each other.**

9 Q. Right.

10 But when an African-American uses that word,
11 the N word, that's different than when people who aren't
12 African-Americans use the word; right?

13 **A. Once again, it depends on which version they're**
14 **using.**

15 Q. Right.

16 But even the A version of the N word is
17 offensive to African-Americans if someone who's not
18 African-American is using it; right?

19 **A. It depends, once again, on the context of how**
20 **they're using it.**

21 Q. Okay.

22 **A. It is offensive, but, like I said, it depends**
23 **on how they're using it, you know.**

24 Q. Well, it's not something that should be used in
25 the workplace --

WAYNE JACKSON
May 17, 2019

1 REPORTER'S CERTIFICATE

2 STATE OF CALIFORNIA)
3) ss.
4 COUNTY OF MARIN)

5 I, PATRICIA ROSINSKI, hereby certify:

6 That I am a Certified Shorthand Reporter in the
7 State of California.

8 That prior to being examined, WAYNE JACKSON,
9 the witness named in the foregoing deposition, was by me
10 duly sworn to testify the truth, the whole truth, and
11 nothing but the truth;

12 That said deposition was taken pursuant to
13 Notice of Deposition and agreement between the parties
14 at the time and place therein set forth and was taken
15 down by me in stenotype and thereafter transcribed by me
16 by computer and that the deposition is a true record of
17 the testimony given by the witness.

18 I further certify that I am neither counsel for
19 either, nor related in any way to any party to said
20 action, nor otherwise interested in the result or
21 outcome thereof.

22 Pursuant to Federal Rules of Civil Procedure,
23 Rule 30(e), review of the transcript was not requested
24 before the completion of the deposition.

25 PATRICIA ROSINSKI, CSR No. 4555

May 28, 2019